THE NATIONAL IMPACT OF CASINO GAMBLING PROLIFERATION

Y 4. SM 1: 103-104

The National Impact of Casino Gambl...

HEARING

BEFORE THE

COMMITTEE ON SMALL BUSINESS
HOUSE OF REPRESENTATIVES

ONE HUNDRED THIRD CONGRESS

SECOND SESSION

WASHINGTON, DC, SEPTEMBER 21, 1994

Printed for the use of the Committee on Small Business

Serial No. 103–104

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THE NATIONAL IMPACT OF CASINO GAMBLING PROLIFERATION

WEDNESDAY, SEPTEMBER 21, 1994

HOUSE OF REPRESENTATIVES,
COMMITTEE ON SMALL BUSINESS,
Washington, DC.

The committee met, pursuant to notice, at 9:05 a.m., in room 2359–A, Rayburn House Office Building, Hon. John J. LaFalce (chairman of the committee) presiding.

Chairman LAFALCE. The Small Business Committee will come to order.

The Small Business Committee meets this morning to examine the impact of casino gambling on the Nation. We are drawn to this topic due, in large part, to the fantastic growth of the casino industry in recent years. If you pick up a newspaper from just about any city, in any State in the country, you can read about a local referendum on casinos or the construction of a new gambling complex. A recent *New York Times* Magazine cover story offers a striking portrayal of casino gambling proliferation.

"Gambling is now bigger than baseball, more powerful than a platoon of Schwarzeneggers, Spielbergs, Madonnas, and Oprahs. More Americans went to casinos than to major league ballparks in 1993. Ninety-two million visits. Legal gambling revenues reached $30 billion, which is more than the combined take for movies, books, recorded music and park and arcade attractions."

The article goes on to state that within a decade virtually all Americans will live within a 4-hour drive of a casino.

What is the cause of this phenomenal growth? I suspect there are three primary reasons, all centering on a competitive atmosphere to attract the gambling dollar. First, States are competing with Indian tribes, both in a race to build casinos ahead of the other.

Second, States are competing with other States to lure potential gamblers across State lines.

Finally, with the recent success of a casino development in Windsor, Ontario, where 80 percent of the patronage consists of Detroit residents, there is a competition between border States and Canadian communities to our north.

I hope to explore the causes of casino proliferation in the future. Today, however, we shall focus on the impact of this proliferation, examining the benefits and costs to individual communities and to the Nation as a whole.

In terms of benefits, there is no question that casinos generate revenue, not only for casino owners but for local and State governments. Recent windfalls in casino revenues have provided relief to

many resource-strained State and local governments, allowing, in some cases, for levels of spending on education, building-preservation and other public services that have not been seen in years.

This is new money flowing into what have been some of the poorest regions in our country. The casinos themselves have provided jobs in places where the opportunity to work has long been absent. These are clearly social and economic benefits accruing directly from the recent emergence of casinos in places like Tunica, Mississippi, and Deadwood, South Dakota.

If this were the end of the story, if casinos were typical businesses in the recreation industry, there would be little reason for us to focus on the impact of their explosive growth, except to applaud the success of casino owners. But casinos do not appear to be typical businesses. In social and economic terms, casinos may have significant externalities that we do not see in other businesses or other industries.

Specifically, I am very concerned about the consequences of casino proliferation in three areas: The impact on other small businesses and, more broadly, on the economic well-being of communities nationwide; the impact of casino growth on gambling addiction; and the impact on levels of crime.

In each of these areas, there is an emerging body of evidence to suggest that the pace of future casino development should be more measured and further growth should receive more careful scrutiny at the local, State, and national levels.

At the national level, the impact of casino proliferation on existing small businesses appears to be mixed. Some businesses will likely benefit from the increased traffic in a community that casinos create. On the other hand, we know that Americans have a fixed amount of entertainment income; if they spend more of it on gambling, then it would seem that they will spend less of it on movies, restaurants, sporting events, et cetera. This is one important question we will consider today: Do those who gain from casinos do so at the expense of other businesses, other communities and other States?

Turning to the issues of gambling addiction and crime, evidence suggests the two are inextricably linked. The American Insurance Institute estimates that as much as 40 percent of all white collar crime is committed by individuals who have serious gambling problems. Another question for us to consider today is to what extent does casino proliferation lead to a proliferation of compulsive gamblers?

This morning we will want to hear the full story on casino proliferation. We hope to gain considerable insight into the benefits and costs associated with casino proliferation, both for individual communities and for the Nation as a whole. To help us identify the costs and benefits of casino gambling to our Nation, we have an expert panel of witnesses.

First, we are pleased to welcome Robert Goodman, Director of The U.S. Gambling Study and Lemelson Professor at Hampshire College. Professor Goodman's study, funded by the Aspen Institute and the Ford Foundation, stands alone in its superb synthesis of collective knowledge nationwide on the topic at hand.

We also welcome Professor Earl Grinols, professor of economics at the University of Illinois. Dr. Grinols has devoted a considerable effort to analyzing of the economics of casino gambling, both at the State and national levels.

Also, Dr. Valerie Lorenz, director of the compulsive gambling center in Baltimore, Maryland. Dr. Lorenz is a nationally recognized expert on compulsive gambling and has devoted much of her career to bringing more national attention to the issue.

We will then turn to two local perspectives on the casinos issue, welcoming Jeffrey Bloomberg, State's attorney for Lawrence County, South Dakota, and Webster Franklin, executive director of the Tunica County Chamber of Commerce, in Tunica, Mississippi. Both have seen their communities change dramatically due to casino developments, and we look forward to their valuable insights today.

We will also be submitting two statements for the record, first that of Representative Frank Wolf and second that of the Honorable A. J. Holloway, Mayor of Biloxi, Mississippi, who was invited but was unable to attend the hearing today.

[Mr. Wolf's statement may be found in the appendix.]

[Mr. Holloway's statement may be found in the appendix.]

Chairman LAFALCE. I would, at this time, call on other members of the committee who may have an opening statement.

Chairman LAFALCE. Representative Bilbray of Nevada.

Mr. BILBRAY. Yes, thank you, Mr. Chairman.

Of course, representing the First District of Nevada, which is composed of Las Vegas, I probably have a different perspective when it comes to casino gambling, having been born in an area and living around gambling all my life. Most of us who have lived around it all our lives don't gamble. I do not gamble. I go to casinos and do not gamble. Maybe it is because I have lived around it all my life.

But the fact is that Las Vegas is unique in that it started as a town of 3,000 people when casino gambling was legalized, and now it is approaching a million people. The small businesses that are around gambling in Nevada are based on the fact that they wouldn't be there if it was not for casino gambling.

I am very concerned about the lack of regulations in States other than New Jersey and Nevada on controlling their gambling, and of course we have Mr. Bloomberg from the commonwealth or County Attorney for the Deadwood area who will be discussing the situation today in that area.

But one of the areas that I hope that this committee will look at in the future is Indian gaming and what effect the national commission that regulates Indian gambling will have when they only have eight investigators for the entire country to make sure that gambling is run as it should be, fair to both the operators and to the customers that come in.

In Nevada, we have over 300 agents just for our own State, and the national commission has eight for the entire United States.

But I hope that when the witnesses testify today they will look at it objectively, not only the effects it would have where you have good regulation, good control and good management versus the helter-skelter way that it is being developed throughout the country.

I am anxious to hear the testimony from the witnesses, and I will have a series of questions for them when they complete their testimony.

Thank you.

Chairman LAFALCE. I thank the gentleman from Nevada.

Does anyone else have any opening statement they wish to make? Then I would call all the witnesses to the table at this time.

I know this is going to be difficult, but I am going to ask each of you to attempt to confine your opening statement to no more than 10 minutes, and if you should fall short of 10, you can conclude at that point, too.

Chairman LAFALCE. We will first hear from Professor Goodman.

TESTIMONY OF ROBERT GOODMAN, DIRECTOR, THE U.S. GAMBLING STUDY, LEMELSON PROFESSOR OF ENVIRONMENTAL DESIGN, HAMPSHIRE COLLEGE, AND PROFESSOR OF REGIONAL PLANNING, UNIVERSITY OF MASSACHUSETTS

Mr. GOODMAN. Thank you, Congressman LaFalce. Thank you especially for the compliment you paid to our research efforts over the last couple of years. I have told people in the past who have complimented us on it that my hope is that our efforts will be obsolete within a year. We see the need for a great deal more research. We were able to put together a lot of research over that period of time, but there is still a lot of work that needs to be done.

As you know, the project was conducted at the University of Massachusetts at Amherst, with funds from the Ford Foundation and the Aspen Institute, and we spent a great deal of time interviewing quite a number of business leaders, political officials, Attorneys General, people in the media over that period of time and studied quite a great deal of research in the area.

We have been heartened by the response to it, by the number of thymes we have been asked to testify, by the talks I have been asked to give in various parts of the country, including national conferences of State legislators and Attorneys General.

But in spite of the positive response there has been also some negative response. To be quite honest, I was at first surprised by the intensity of some of the attacks against the study by political leaders and people in the gambling industry.

Complaining letters were written to the University of Massachusetts president which questioned my right to do this research at a State university. Unnamed sources called newspaper reporters to describe the Ford Foundation and the Aspen Institute as, quote, moral crusaders against gambling.

In spite the fact that I openly acknowledged that I sometimes gamble myself, I have been also attacked as an anti-gambling moralist.

The intent of the study was to look at the economic consequences of gambling. To that effort we looked at a number of economic impact studies that were done. We looked at experience in many parts of the country.

In the process of studying and debating the economic consequences I have come to understand why gambling industry executives and politicians were disturbed by criticism of this industry. Clearly, from the industry perspective, having a Government

monopoly — essentially, in many cases, Government-sanctioned monopoly — gives them an immensely profitable position, and criticism can be seen as threatening to those profits.

But I think from the political perspective criticism is also always threatening but I think for more complex reasons, and these stem from, really, the limited opportunities for economic development in many parts of this country, and the introduction of gambling is really a symptom of that problem rather than a long-term solution to it.

Having to deal with downsizing by major private firms, having to bear the brunt of reduced Federal aid and other problems that you are familiar with in the cities, any new enterprise which promises large numbers of jobs and revenue can give the appearance of salvation and economic revival. With constituents hurting, with more productive solutions very hard to come by, even desperate solutions can seem better than no solution.

Just to give you an idea of how desperate this has become, last year in Detroit, a city once identified as the world's leading producer of automobiles, where the unemployment rate has soared, during the fall, the local casino developer announced that he was accepting applications for jobs, even though no casino has actually been legalized. These applications were being sought, according to the developer, in order to have time to train workers in the event that the company's proposed casino project might be legalized.

On a cold November morning, 3 hours before the doors opened for applications, hundreds of people began lining up. As the day wore on, more people arrived. The streets were closed off. By the day's end it was reported that over 10,000 people, most of them black, had filled out applications for what were essentially nonexisting jobs.

The mayor had called that a cruel tactic to raise people's hopes in a ploy to create political pressure to legalize casinos in Detroit. But this is a dangerous form of economic development, using gambling as government policy to create jobs.

It is clearly different than what happened, say, since early 1930's in Nevada and since the late 1970's in Atlantic City. In those cases, you clearly had what we would call a monopoly export economy. That is, people came there as destinations, tourists. They gambled. They left a great deal of money in those locations.

The money had a multiplier effect in the sense of creating jobs not only in the casino industry but other industries there. Although there is some significant problem of gambling addiction in both of those locations, for the most part, the tourists took those problems with them — that is, the gambling addiction problem — and returned to their communities.

That model of gambling as economic development does no longer exist in this country. Unfortunately, many communities are looking toward that model that no longer exists as a source of creating jobs and revenue.

What you have now is what the casino industry itself refers to as convenience gambling. In the question period, if you would like, I can cite you many references by people in the casino industry themselves that are saying this new form of gambling is not what it has been made out to be by some of the promoters. That is not

a method of creating jobs and enhancing local economic development.

That is not just the conclusion of my report but that is the conclusion of casino developers themselves. As I said, I would be happy to go through that with you if you like, but there is not enough time right now.

So, what you are finding in this convenience gambling economy is that essentially that money, discretionary dollars that are being spent on other forms of entertainment and consumer expenditures, are now being shifted into casinos. That is not economic development in any real sense of the word. It is basically shifting dollars, and this is creating an onerous financial burden on future generations by simultaneously undermining what remains of America's productive economy.

It seems a very strange paradox to me that while the Federal Government is trying to develop new partnerships with the country's most productive job-enhancing and economy-expanding industries by providing research assistance for high technology firms and semiconductors and the information superhighway and developing a clean car, for example, at the same time, State and local governments are moving in just the opposite direction.

These governments are developing new partnerships with businesses in some of the most unproductive sectors of the economy, helping to expand an industry whose success increasingly depends on cannibalizing dollars from other businesses and whose expansion will create serious future problems for other businesses and governments to deal with in the future.

In effect, State and local governments have created an industrial policy but a regressive industrial policy with casino gambling. To continue in this direction would contradict the extensive efforts going on in the Federal Government at targeting help for those businesses which can take the lead in enhancing the Nation's competitiveness in the face of increasing global competition.

At the Federal level, you have these resources going into developing programs that deal with international trade, patent protection to help expand American business, protect against predatory foreign trade policies. Yet it seems to me the Federal Government has done little to protect American businesses, especially small businesses, against the predatory industry or process, I should call it, not simply an industry but a predatory process at home, those State and local government partnerships with the gambling industry whose monopolistic powers will have a devástating effect on large portions of the existing economy.

In the process of doing this kind of quick relief, quick-fix economic development we are creating some enormous problems. Potential investment capital is being reduced. Existing businesses are losing consumer revenues, being pushed closer to decline and failure.

Using our own research findings, we have conservatively estimated that each problem gambler costs Government and the private economy $13,200 a year. As an example of that, if you simply increased the incidence of problem gambling in a small State like Iowa — that is, by introducing more and more new gambling ventures — if you increased that prevalence by only ½ of 1 percent

of the adult population, it will cost private business and Government at least $73 million a year.

The same slight increase, ½ of 1 percent in a much more populated State like California, would result in yearly costs of $780 million. That is a very conservative number. We have seen other economists estimate costs as high as 30,000. We have even seen it up to 100,000. But we only include costs that we could absolutely feel were relevant in terms of problem gambling.

What do those costs have to deal with? This includes such costs to the private economy as money which problem gamblers borrow and don't pay back, work time lost to private industry by problem gamblers who are ineffective on the job, salaries lost by problem gamblers laid off as a result of their problems, private insurance losses as a result of fraud by problem gamblers, losses that result from embezzlement, check fraud.

In addition, there are the public costs of processing public gamblers through the criminal justice system, including the cost of keeping some of those people in jail for some period of time.

I am going to — since you have given me less time than I was told initially, I am going to skip at this point to my — some of the recommendations that we made, and perhaps in the question and answer period I can cover some of the other points.

There are four basic recommendations. One is a more extensive and objective assessment of the impact of expanded gambling on the American economy. This should include an ongoing, objective assessment of the economic and social impacts of problem gambling on private and public economies in the United States to really determine what are the real costs and benefits. We found that most of the research that government leaders rely on was done by the gambling industry itself or researchers who worked primarily for the gambling industry.

Second, we believe there ought to be an assessment of the impacts and implications of State and local gambling economic development policies on Federal Government and private sector efforts to improve the national economy. How, for example, are national efforts and improving America's global competitiveness being impacted by State and local government gambling industrial policies?

Third, we believe there should be a plan for coordinated and cooperative effort among Federal, State, local and tribal governments in expanding the economy. This would include a coordinated effort at national gambling policy and an end to State gambling policy being used simply to protect local discretionary dollars from crossing borders.

Fourth, the development of something that I am working on now, what I call a winner/winner gambling opportunity for the public as opposed to a current models of State-sponsored gambling based on winner/loser models. These would be opportunities which recognize that people have a desire to risk their money in the hope of gaining more money, but would move in the direction of combining an investment approach with gambling rather than an all-or-nothing wagering approach.

One such alternative, as I say, I am currently researching and developing, is called the investment lottery. This is based on a 300 year-old idea for lotteries that was first developed in England. In

these games when players bought tickets and they didn't win they were paid back their original purchase price plus interest over a period of time. Some of the players won large prizes. It was really an inducement for people to lend their money to governments so that government would be able to do certain forms of development they could not ordinarily do.

I want to thank you very much for the opportunity you have given me this morning, and I would be happy to answer any questions you might have.

Chairman LAFALCE. Thank you very much. We will withhold questioning until we hear from all the members of the panel.

[Mr. Goodman's statement may be found in the appendix.]

Chairman LAFALCE. Our next witness will be Professor Earl Grinols of the University of Illinois.

TESTIMONY OF EARL GRINOLS, PROFESSOR OF ECONOMICS, UNIVERSITY OF ILLINOIS

Mr. GRINOLS. Thank you. My name is Earl Grinols, I am an economist at the University of Illinois, and I have been studying the economics of gambling for the past 4 years.

The essence of the gambling debate from an economic perspective can be understood by asking the question: Does America need another form of entertainment so badly that it is willing to add another social problem to the list that it already deals with such as crime, alcoholism, teen pregnancy, illegal drug use and so on?

From the Federal Government's perspective, a good analogy might be the following: Imagine if a pharmaceutical company invents a new pharmaceutical. There are already other drugs available for the same purpose. The product works extremely well for 98.5 percent of the people who use it. However, for 1.5 percent of the people who use it, the drug completely ruins their life. Would the FDA license this drug?

To see how gambling differs from other entertainment, we can ask, how would gambling have to be "sanitized" to make it like other forms of entertainment? I think at least three things are needed.

First, we would have to eliminate the 1.5 to 5 percent or so of the population who we know will become pathological or compulsive or addicted gamblers.

Second, we would have to eliminate those who gamble beyond the point of recreation or entertainment. Though gambling is a sterile transfer of money from one pocket to another, it does use time and resources. Gambling for nonrecreational or nonentertainment purposes reduces national income.

Third, we would have to eliminate the massive concentration into the hands of a small group in the gambling industry of money and influence, and especially its effect on the legislative process in statehouses and city councils across America.

If all of these three things were done, gambling would be little different than the opera, major league sports or any other type of entertainment about whose growth we need not be concerned.

Let's take a closer look at the negative concerns. The social damage from gambling derives primarily from the 1.5 to 5 percent of pathological gamblers. As with a small list of other activities such

as alcohol, drugs or crime, it is a tiny percentage of the people who creates the enormous social costs that must be borne by the many, even those who do not gamble.

Gambling social costs include direct regulatory costs, lost productivity costs, direct crime costs, in which would be included apprehension, adjudication and incarceration costs, as well as harder-to-price costs such as suicide, family disintegration and such things as increased car accidents.

Multiplying the costs per compulsive gambler times the number that will be created by gambling's spread implies social costs in the range of $100 to $300 per adult per year in a region where gambling is prevalent and has been present long enough for these problems to materialize.

Were the Nation to introduce gambling everywhere, the damage would equal the costs of an additional 1990/1991 recession every 8 to 15 years. Equivalently, this would be like the costs of an additional Hurricane Andrew, the most costly natural disaster in American history, or two Midwest floods every year in perpetuity.

The gambling industry says we should accept such costs because gambling will provide economic development. How do we evaluate these claims? A factory, when it locates in an area, sells to the rest of the country. Its payroll, materials purchases, and profits spent locally are new money to the area that represents tangible goods produced.

On the other hand, adding a new restaurant that caters to local population in an area simply takes business from local firms. The question for a particular region therefore is: Is a casino more like a factory or a restaurant?

In Las Vegas, casinos are more like factories because they sell gambling services to the rest of the Nation. In most other parts of the country, gambling is like a restaurant, however, drawing money away from other businesses, creating no economic development, but leaving social costs in its wake.

A study I did of Illinois casinos, for example, examines 10 counties where casinos were opened from September, 1990, to June, 1993. Although the direct gambling jobs were 7,806 added to an employment base in those counties of 118,000, jobs rose in those counties in total by only 2,038, and the decrease in the number of unemployed was only 21.

When the job gains that would have occurred anyway in those counties were accounted for, the net effect of gambling was that roughly one job was lost for each gambling job created, an increase in the gambling industry, but not economic development.

So far, we are describing the normal forces of competition when one business that competes for consumer dollars expands at the expense of its rivals. In the case of gambling, however, Government restrictions prevent other small businesses from competing. Casinos can offer food, liquor and entertainment, but existing small businesses cannot offer gambling.

In response to such a one-sided and unfair competition, small businesses have no choice but to seek to have all gambling banned or lobby for gambling licenses of their own. It does not take much insight to see that licensing everyone who asks means that we could have casinos on every corner in America, like McDonald's

hamburger stands, but to what end? The social costs of that, as we have said, would be massive.

In general, it seems that consumers take gambling money from purchases of a type where postponement is possible. It is always possible to put off buying clothing a little longer, for example preliminary results from my studies show that casinos draw money from expenditures that would have gone for items such as apparel and that other expenditures for consumer durables such as furniture can also be negatively affected.

Interestingly, food purchases within 10 miles of the casino are also negatively impacted. A study conducted for the State of South Dakota shows similar declines for clothing stores, recreation services, business services, auto dealers and service stations.

In Minnesota, restaurant business within a 30-mile radius of casinos with food service was reported to have fallen by 20 to 50 percent, and this has been verified in press accounts by restaurant owners near Illinois casinos. It is well-known that in Atlantic City the number of restaurants declined from 243 in 1977, the year after casinos were legalized, to 146 10 years later, and that retail business and employment in Atlantic City has continued to decline, despite the presence of gambling.

In my longer written submission I emphasized the harmful social dynamic that gambling has engendered across the country. The incentives that apply to the different State and regional players that gambling affects induce poor social outcomes. Gambling promoters have an incentive to do whatever is necessary to get their gambling license. Can we blame them that in Illinois nearly two-thirds of the members of the legislature have received gambling industry money, with the largest recipients just happening to be the speaker of the House one year, a Democrat, and the president of the Senate, a Republican, the next?

The proposal for casino gambling in Chicago has been defeated three times in Illinois, but the prognosis is that it will be brought up again and again until the gambling promoters succeed.

In another major State where casinos are also being planned, my contact, a former president pro tem of that State's Senate, tells me in his words that gambling interests, "own the legislature".

In spite of millions of dollars in gambling advertising, Missourians voted down a change to their Constitution in April to allow games of chance, but the question is being put back on the ballot this fall, 6 months later. The phenomenon of staging multiple revotes is a scenario being played out in Detroit, Iowa and other places.

I might add that I am going to be traveling to Blackhawk County, Iowa, where gambling was voted down in a referendum on May 19th. It is back on the ballot for September 27. Is this good Government?

State representatives have no incentive to view gambling in terms of its overall effect on the country. To them, it is a way to raise tax money — hopefully from people of neighboring States who will take their problems back home — even though the social costs for an additional dollar of tax raised through gambling is in the range of $3.50 per dollar raised, compared to only $1.45 for raising taxes the old-fashioned way, by raising taxes.

City councils want to believe that they are being told the truth, that gambling will bring economic development — even at the expense of neighboring jurisdictions. Yet when everyone has gambling, no region gains at the other's expense.

Racing to see who can get gambling first means that when we all arrive at the goal the only thing we will find is a new social problem that should be prevented now by a national, coordinated policy.

That is the economics of gambling in a nutshell. Thank you.

Chairman LAFALCE. Thank you very much, Professor.

[Mr. Grinols' statement may be found in the appendix.]

Chairman LAFALCE. Our next witness is Dr. Valerie Lorenz.

TESTIMONY OF VALERIE LORENZ, DIRECTOR, COMPULSIVE GAMBLING CENTER, BALTIMORE, MARYLAND

Dr. LORENZ. Thank you, Mr. Chairman. I have been in the field of compulsive gambling for 22 years, and let me make it very clear from the beginning, I am not at all against gambling. I am certainly not against legalized gambling. I never have been, and I doubt if I ever will be.

However, that does not mean that I am not concerned about the unparalleled proliferation of gambling in this country and the lack of national policy to address the consequences of this legislation and the lack of State government policies to address it within their own States.

I have prepared a statement for you. Rather than reading it, let me select some high points from it and make some other comments.

Back in 1975, the U.S. Commission on the National Policy Toward Gambling issued a report after a 4-year study. The study stated in brief, one, that if this country is going to increase legalized gambling, first of all it should allocate funds for law enforcement and crime prevention. That has not been done.

It further stated that there should be regulations. As Congressman Bilbray said, that has not been done.

The report also addressed the problems of compulsive gambling and recommended that funds be set aside to prevent compulsive gambling and to treat compulsive gambling. That, Mr. Chairman, has not been done either, not by Congress and not by States except recently. Very few States have done some very minimal amount of work in that effort.

Back in 1975, Nevada was the only State that had a total gambling climate, and this congressional study found the incidence of compulsive gambling was more than double in that State than it was nationwide.

Since that time, our country now has legalized lotteries in at least 36 States, I believe, plus the District of Columbia. I believe 21 States now have casino gambling.

What are we finding in terms of compulsive gambling? That the typical profile that existed 20 years ago of the white, middle-aged, middle-class, well-educated businessman who could afford to fly to the casinos and gamble is no longer the typical profile of the compulsive gambler.

What we are seeing now is senior citizens, people who are 70 years old who lose everything they have ever earned in their entire lives, who are destitute, sometimes homeless and who don't have the money to pay for treatment. We are seeing teenagers who are compulsive gamblers, who are facing legal charges, who are dropping out of school, who have felonies against them at age 18 or 20. What future is there for them?

We are seeing minorities, women, black people, low-income people, people who now gamble because it is so readily available.

I ask you, what has this country done to prevent compulsive gambling?

The National Institute of Mental Health has repeatedly refused any kind of request for research funds. There are no funds to do early intervention or prevention programs in schools. There are no funds for treatment.

Our State of Maryland in 1978 was the first to recognize that compulsive gambling created a major socioeconomic problem in our State. It funded the Johns Hopkins Compulsive Gambling Treatment Program for 4 years. It has not funded any treatment since 1985.

It funded a national hotline for 7 years to the tune of $24,000. Mr. Chairman, it costs at least $100,000 to operate a 24-hour national compulsive gambling hotline. Our Department of Health withdrew that $24,000 funding this year on the statement that it had no money to support it, and yet our State government this year had a $60 million surplus.

I suspect it is because the State government did not want to hear the statistics that we were presenting to them, to our legislature, to our health officials, to our Attorney General, about the incidence of compulsive gambling and the associated crime, broken homes, medical problems, indebtedness, bankruptcies and everything that goes with it. We have been silenced by so many voices all across the board.

Dr. Goodman said that he has received all kinds of threats. So have I. I am referred to as the antigambling lady in Missouri and by the gambling industry because we did go to Missouri, because the businessmen there found that the riverboat casinos was not a good thing for them economically, nor was it good for the quality of life. The citizens want quality of life in their communities. They want healthy families. Gambling does not lead to healthy families or quality of life.

I was interested to hear Congressman Bilbray express his concern about the lack of regulation. Certainly, I can endorse that concern. But I am wondering, Congressman, have you gone to the MGM Grand Casino? It cost a billion dollars to build that casino.

Casinos now, the big, land-based casinos, use theme parks. That means that in the hotel rooms there are pictures of the Wizard of Oz, Toto, and the Tin Man. But what you also see in those casinos at 2 o'clock in the morning is 5- and 6-year-old children running in and out of the slot machines areas while mommy pulls the handle on the slot machine or puts the credit card in the poker machine. Is that what we want for our children or our families?

What is the crime rate, what is the homicide rate, what is the alcoholism rate in Las Vegas, and what is it becoming across the

country? Certainly gambling has a part in that because we know that there is such a thing as cross-addiction, crossing from alcoholism into other addictions such as gambling and co-addiction.

There are many treatment programs for alcoholism and drug addiction, but I ask you, how many publicly funded treatment programs are there in the State of Nevada, which has had gambling for 40 or 50 years? The answer is none.

Ours, the Compulsive Gambling Center in Baltimore, is the only residential treatment center for compulsive gamblers in the entire country, and we are a nonprofit agency. By that I mean not only by charter but in reality, because we get no State funds, or funds from private foundations, and we certainly do not get any Federal funds — not for treatment or research or community education, not to train mental health professionals across the country, not for gambling hotlines to do that early intervention and crisis intervention.

Let me tell you just about some of the past residential patients that we have had in our center in the past 2 months. One was a nun who was also a principal of a high school, and her religious community was in uproar and despair because they didn't know what to do with the bad checks that she had written because of her gambling at the Tunica riverboats.

What about the judge who, while he was in treatment at our center, had his name emblazoned across the front page of his hometown newspaper: Judge owes money to the court because of gambling debts. That is in the State of Louisiana because of riverboats.

Another is a major businessman. One of the buildings he constructed is in the Guinness Book of World Records. This man now may be facing embezzlement charges if he can't make some efforts to avoid them. At best, he will be facing bankruptcy, which mean that the hundreds of thousands of dollars that he owes to his small businesses, will be written off. He will lose his house and be unemployed. His employees will be out of jobs. He was able to be in treatment only because he had a family member who was willing to pay the money because he had no insurance. That is a typical scenario.

We have a young Jewish boy who has turned 27——

Chairman LAFALCE. Dr. Lorenz——

Ms. LORENZ. It goes on and on. Thank you.

Please look at the problem of compulsive gambling. Establish national policy. Look at your States. This is a problem that is growing. It is just like AIDS. We ignored AIDS, and now we have an epidemic. The same thing is what is happening with compulsive gambling. It has become a national health problem.

Thank you very much, Mr. Chairman.

Chairman LAFALCE. Thank you, Dr. Lorenz, for that extremely eloquent testimony. It is precisely because of our concerns about the proliferation of gambling and the proliferation of the problems associated with gambling that we are having this hearing.

It is precisely because it appears clear to me that not only is there no national policy but there is a crying need for a national policy that we are having this hearing. I intend for this hearing to be the first round in a series of hearings on this issue leading, eventually, I would hope, toward a national policy.

Ms. LORENZ. Thank you, Mr. Chairman.

[Ms. Lorenz' statement may be found in the appendix.]

Chairman LAFALCE. We will next hear from the Honorable Jeffrey Bloomberg, the State's attorney for Lawrence County, South Dakota.

TESTIMONY OF JEFFREY BLOOMBERG, STATE'S ATTORNEY, LAWRENCE COUNTY, SOUTH DAKOTA

Mr. BLOOMBERG. Thank you, Mr. Chairman.

I have been a prosecutor since 1982 in Lawrence County, South Dakota, a small rural area of approximately 21,000 people. Until 1988, I had no interest whatsoever in gambling or the issues that are related to casino gambling.

However in that year, the citizens of South Dakota, including myself, voted to approve limited casino gambling within the boundaries of Deadwood, South Dakota, a very small community of 1,800 within South Dakota. Almost immediately, dramatic changes began within our community, and since that time I have had the opportunity to talk to journalists and government officials and private citizens throughout the United States regarding some of the very issues that we have run across in our community and some of the same issues that they are now running into in their community as they either adopt gambling or consider it.

In every community or State that I have gone to or people who I have talked to the same sales pitch is used in regard to gambling. That is, economic development, new jobs and lower taxes. Every State, the pitch is the same.

Those are lofty goals, obviously, and they are hard to argue against. However, I think any government official, whether on a State, local or national level, has to scrutinize those claims before they take the lead because we have found in South Dakota and particularly in my community that once you take that leap there is no turning back. Gambling becomes part of your economic, social and government climate. It is an irrevocable decision.

When we actually started gambling in operation on November 1, 1989, no one, again, predicted the dramatic changes. For instance, the main street of our community, which was a typical small town, small shops and businesses, was converted almost overnight into a four-block strip of casinos now totaling 82 small separate casinos.

Gone were the clothing and the shoe and the hardware and the grocery stores as well as three separate car dealerships converted to gambling establishments. Many of the necessities of life such as clothing are no longer available in our town, and the only remaining grocery store has a gauntlet of slot machines which the customers walk through with their purchases after going to the grocery store.

Real estate prices skyrocketed. There are many businesses on Main Street that were valued between $100,000 to $200,000 prior to gaming, and overnight those properties were sold for a half a million. I know of one property that then, the very next day, sold for a million dollars. That type of speculation really ran rampant originally, and, as I will point out in a moment, had a dramatic effect on real estate taxes as a result.

That was a windfall, of course, for the property owners that had those properties before gambling, but what did that do to the shoe salesman or the mechanic or the salesperson who works in those businesses? It forces them to lose their jobs and decide to move, which a number of them did, or to find a job in the gaming industry.

Jobs were plentiful and are plentiful as a result of gaming. There is no question about that. There has been one study that in a town of 1,800 there are now 1,500 gaming-related jobs and approximately 600 spin-off jobs in that community. The geographic location of Deadwood dictates that most of those people live outside the area and have to commute to these jobs.

The infrastructure of our community was totally inadequate for the number of visitors that came and the number of new employees. The water lines, sewer lines, parking and other governmental infrastructure was inadequate and had to be replaced. But the city government had no funds with which to make those kinds of changes.

So, they made what I believe to be a critical decision and one which in hindsight it is easy for me to criticize, but they decided to bond, sell revenue bonds to develop that infrastructure and pledged the proceeds from gaming taxes, future gaming taxes to pay off those bonds.

As a result, if the citizens of Deadwood today wanted to get rid of casino gambling they could not do so without going into total bankruptcy. They are inextricably linked to gambling for a considerable period of time.

The jobs that were created need to be scrutinized. Yes, there are some management people who make handsome salaries, but for the most part the jobs are service positions of waiters and waitresses and house cleaners and those types of positions, and in South Dakota those jobs are either minimum wage or slightly higher with no benefits.

Many of the positions are seasonal in nature, and once Labor Day comes around they are laid off at that point in time. Even the so-called licensed support people, the pit bosses and the blackjack dealers and poker dealers, et cetera, find they need to survive on the tips to make a living.

The economic effect on the gaming entrepreneurs has also been mixed. Recently, the gaming industry indicated in Deadwood that approximately half of their business operations are losing money, although in the last 5 years since gaming was adopted only a handful have actually gone out of business.

There do appear to be a handful of larger operations that have linked a number of casinos together that appear to be making handsome profits.

As to the claim that tax relief will be brought about by gambling, that has simply proven to be not true in Deadwood or Lawrence County in the school district. Taxes, in fact, in terms of real estate taxes have gone up each and every year since gambling came to our community.

I think that is because of two reasons. First of all, the profits that have come in terms of gaming taxes have been eaten up by the additional costs that have come to our community.

Second, real estate assessments jumped dramatically when the property values jumped. So the individual that had a business that was nongaming before and didn't want to get into gaming was certainly looking at a much larger tax bill because the assessment of his property had jumped.

The city of Deadwood went from a pregambling 1988 budget of $1.4 million to a 1994 budget of $9.1 million. For instance, the police force doubled in that timeframe.

My office has also seen an increase in our caseload as a result of gambling, and I have provided some of those statistics for the committee.

Those numbers I think are attributable and that increase is attributable to really two things. One, we have a large number of additional people who are coming into our community, and some would say that is a good thing. The more people you have in any community, the more crime you are going to have. But I note, just my personal observation, that it is a different type of visitor that comes to Deadwood.

Before gambling, we had basically families who came who were interested in the Old West history and the flavor that that generated. Today, we see single people and couples who are coming, and it is an adult atmosphere, and it seems to generate additional crime in terms of our caseload in my prosecution office.

In addition to the increase that is attributable to the sheer numbers of people who are coming, there is certainly a percentage of our crime increase which is related directly to gambling and its, I think, negative effects. The so-called addicted gambler. Frankly, from my perspective that has been one of the most disturbing things about gambling.

I have seen people who I know personally and other people who I have observed who, before being exposed to casino gambling, had absolutely spotless records who became addicted to slot machines and, as a result, ultimately were forced, after they had gone through their entire personal resources, to commit some type of felony or other crime in an effort to get more cash to gamble.

I think of the pizza restaurant operator who embezzled $45,000 from his employers to fund his slot machine habit. Or a worker that I am aware of personally who committed suicide after getting thousands of dollars in debt.

Or perhaps most tragically, a technical sergeant in the U.S. Air Force who had clearance to work on nuclear missiles who for 10 years, again, had a spotless Air Force career who became addicted to slot machines. Came to Deadwood one night and, over $400 in bad checks, ultimately killed a casino cashier. That individual is now serving a life sentence at the potential cost to the taxpayers of a million dollars, not to mention the dollars wasted because of the loss of his training and the loss of a human life.

The common thought is by many that these people are all drug addicts or junkies of some type. Yes, there are dual addictions we have seen, but many of these have had no problems in those regards before, and many of them had very good jobs before they became addicted to gambling.

We have also seen an increase in our child abuse and neglect cases from the children that have been left in cars while their par-

ents gambled to the children that are left alone because a single mother cannot get cost-effective day care and goes to work in the casino at night down to children that are not fed or clothed properly because their parents have wasted their paychecks.

In general, the crimes that have increased are theft and embezzlement, bad checks and other forms of larceny. One of the things that has not happened, we have not had an increase in our DUI caseload, which I had expected, frankly. We have not seen any evidence of prostitution in our community since gambling came into existence, and we have seen no evidence of organized crime in any form in our State.

I think as it relates to organized crime the key factor there is the State of South Dakota has done a good job of regulating the gaming industry in terms of doing the background checks, and also we have a very small bet limit of $5 which I think prohibits the inclination of money laundering.

The regulation is something that we picked up from the State of Nevada. We had the opportunity go out and work with Nevada officials ahead of time and to see how they did things there, and we learned from that experience.

Unfortunately, from some of the States that I have gone to and talked to, there seems to be some parts of the country that are considering gaming without that type of regulation, and in my opinion that opens the door to the unsavory types getting a foothold there, and I am, frankly, very concerned about that.

Finally, let me just briefly address the issue related to the effect on government in general. I have been most disturbed by the effect that the legalization of gaming has had on our State and local government. 1988 and before that, we had no gaming industry. Now in the State of South Dakota the gaming industry in various forms is one of the most powerful lobbying entities in that State. They employ a number of the best lobbyists. They literally have people in the legislature that are elected to the legislature that worked for the gaming industry. They are very powerful in terms of their ability to sway the legislature.

We have a statewide election going on in November regarding the continuation of our video lottery. It is projected that the gaming industry will spend approximately $1 million on that election in a State of only 700,000 people. Very powerful and a lot of money.

That also carries over into our local city council, which are people, generally, who were in Deadwood before gaming but who are influenced, frankly, by the overwhelming numbers that have come into the community in terms of gaming. Virtually every decision on a local level is dictated by what is best for the gaming industry. That disturbed me, very frankly.

The bottom line is that we, as government officials, myself included, have not been willing to make the tough decisions regarding gaming — excuse me, regarding our public trust. We haven't been willing to say we are going to cut service. We haven't been willing to say we will raise taxes. So we, as government officials, have taken the easy way out, which is to say let's go with this painless form of revenue, which is gambling.

I think we are finding on a local level that it is not painless, and unless we change our attitude toward gambling I think the pain is going to become greater in the future.

Thank you.

Chairman LAFALCE. Thank you very much, Mr. Bloomberg, for that excellent testimony.

[Mr. Bloomberg's statement may be found in the appendix.]

Chairman LAFALCE. We now go to the executive director for Tunica County, Mississippi, Mr. Franklin.

TESTIMONY OF WEBSTER FRANKLIN, EXECUTIVE DIRECTOR, CHAMBER OF COMMERCE, TUNICA COUNTY, MISSISSIPPI

Mr. FRANKLIN. Mr. Chairman and members of the committee, it is an honor for me to appear before you on behalf of Tunica County to express my views on the effects of the gaming industry on our local community. I have a feeling that my view will be a little different from what you have heard here today.

Historically, Tunica County has been known as "the poorest county in the Nation." We are located in the northwestern corner of the State banked by the Mississippi river, which is commonly known as the fertile Mississippi delta.

Our community's jobs have all been based on agriculture prior to the legislation permitting dockside gaming. Large farms which grow cotton, soybeans, and rice farms provided jobs for our citizens. But due to the mechanization and new technology that has come into the farming industry, hundreds of our workers have been displaced.

Unemployment as recently as January of 1992 was as high as 26.2 percent, one of the highest in the State of Mississippi. Per capita income was 11,865, one of the lowest in the State. Fifty-three percent of all Tunica County residents received food stamps. We were known for our substandard housing, poor health care delivery and sanitation problems caused by inadequate or antiquated sewage systems.

Over the years Tunica country received national attention due to several studies, one of them being the Harvard Medical School Committee on Poverty, your own Committee on Hunger, and the congressionally mandated study of the lower Mississippi Delta Development Commission.

These studies all recommended basically the same thing: Government assistance. Due to this national attention, we received much needed government money and assistance. But that did not solve our problem — which was jobs for our citizens. It was not until the gaming industry came into our county that those jobs surfaced.

The Mississippi legislature in 1990 passed what is known as our "dockside gaming law," that authorized dockside gaming on a local country option basis for those counties on the Mississippi Gulf coast and along the Mississippi River. Tunica County followed in passing its local referendum in 1991, which led to the economic explosion that we are now seeing.

Our first casino, Splash Casino, opened its doors at Moon Landing in October of 1992. For 11 months it enjoyed a monopoly on the gaming area and quickly became the envy of the national gaming industry in that its revenues were unprecedented.

The gaming industry realized that Tunica County had the potential, because of its location, to become the Nation's third regional gaming destination resort. Investors flocked into our county and bought control or rights to all available casino sites from Moon Landing north to our neighboring county of DeSoto County. Land prices that in 1990 were valued at $250 an acre, now sell for some $25,000 an acre.

Since the arrival of gaming, our once defunct planning commission, now very active, has issued over $1 billion worth of building permits.

In 1993, we had 12 major casino construction — in the construction phase. This allowed, for the first time, our citizens to go to work in the construction industry at salaries of $10 and upwards an hour. Every able-bodied person in the country was afforded, for the first time, the opportunity to acquire as many overtime hours as they could withstand, therefore, they had a skill that they could take to other jobs once these facilities had been constructed.

Also, each casino sets up employment schools for their casinos to teach the local people the necessary skills to provide blackjack dealers, craps dealers, slot machine technicians, and security guards. The service industry employment in Tunica County for our residents has gone up 435 percent since 1990.

Nine casinos currently operate in our county, employing approximately 9,000 people. There have been more jobs in our county in 20 months than there were people, according to the 1990 census. Our unemployment rate, as I mentioned, was 26.2 percent in January 1992. It has gone as low as 4.9 percent in October of 1993. Child support collections in the county have increased from $38,000 per month to $65,000 a month in 1994. The number of welfare recipients has decreased 42 percent. Food stamp recipients have decreased 13 percent from 1992 to 1993, and that trend continues in 1994.

Business in Tunica County is, in fact, booming. We are in the secondary development stage. We have new housing, RV parks, restaurants and motels. However, there are many service sector jobs that are needed. For instance, I am the first paid director of the Tunica County Chamber of Commerce. We now have a push for a new Department of Tourism that is being currently organized.

To illustrate to you the totality that this money and influx of people have brought into our area, the tax collector responsible for giving out the car tags in our county ran out last year and had to reorder. In fiscal year 1994, our county recorded the highest percent increase of retail sales of all of Mississippi's 82 counties, a 299 percent increase representing sales of $256.5 million compared to $64.2 in fiscal year 1993——

Chairman LAFALCE. If I might interrupt you just for a minute, Mr. Franklin, I am going to have to go to the floor right now. Unfortunately, the small business authorization bill will be up in about 5 minutes, and I have to manage it. We did not know that when we scheduled this hearing. So the balance of the hearing will be chaired by Representative Skelton or one of the other members of the committee. Thank you.

Mr. SKELTON [presiding]. Please proceed.

Mr. FRANKLIN. Thank you, Mr. Chairman.

The Mississippi law provides that part of the gaming revenue that is established in the State of Mississippi be returned to its counties. In fiscal year 1995 it is anticipated that $2.5 million will be put into the county budget with additional impact fees of $12 million. This new revenue source has allowed the county to continue the much-needed infrastructure improvements.

For example, just yesterday our county has embarked on a five-lane major highway that will link five of our casinos together and link them to U.S. Highway 61, our State artery that leads into Tunica County. Another local highway connecting all of our casinos throughout the county has been approved and is now in the planning stages.

We have had two new utility districts created. Funding has been gained for long-range land use development planning, and our county public school system is being completely overhauled.

Revenue from gaming has allowed our county to provide an additional $1.4 million of funding for this school year. This funding will go to new classes, much-needed equipment and increase in teacher salaries. Everyone in Tunica County is committed to updating our public school system.

Our board of supervisors also recently voted to reduce its tax on property in the county by 32 percent.

Mr. Chairman, gaming has had an extremely positive impact on our local economy. However, we are experiencing several growing pains which ought to be expected. All of us in Tunica County are committed to developing our area into a major destination resort.

We envision a major airport, a first-class, family oriented theme park and championship golf courses. Mr. Chairman and members of the committee, I would like to invite all of you to come and enjoy some of Mississippi's hospitality in Tunica County and see first-hand the economic development that has been created in our county since gambling arrived in 1992.

Thank you very much.

Mr. SKELTON. Thank you, Mr. Franklin.

[Mr. Franklin's statement may be found in the appendix.]

Mr. SKELTON. I will call on the other Members as they appear from left to right, but let me make an observation. It seems to me that, historically, wherever there is gaming or gambling, there is a magnet mechanism for criminal-type activity. There must be a shield or guard against it, because of the nature of the animal of gambling or gaming.

There is the other end of this. Mr. Franklin speaks glowingly about the money coming into a county. Where is that from Vicksburg?

Mr. FRANKLIN. We are in the northern part of the State. Vicksburg is further south.

Mr. SKELTON. Are you across from Louisiana?

Mr. FRANKLIN. No, sir. We are bordered by Arkansas and Tennessee — 30 miles from Memphis, Tennessee.

Mr. SKELTON. It appears that the money is coming from somewhere. Obviously, a number of people can afford that. Also, I am 'sure that there are a number of people who cannot afford that.

Is there anyone here who has done statistics on the number of families that have been decimated as a result of gambling? Any of you?

Dr LORENZ. If I may respond to that, Congressman Skelton, those research funds simply are not given to us who try to do that research. However, we do have anecdotal evidence.

I certainly know, for instance, that buses, dozens of buses, go into college campuses to drive these students to Splash Casino and the Tunica casinos and other casinos there. I would ask you, what impact does that have on the students' education? How many of those students will become compulsive gamblers?

We are repeatedly getting calls from mental health service organizations, from lawyers and from doctors: We have compulsive gamblers. We don't know how to treat them. We are getting an increase in crime. But in terms of hard statistics, those numbers are not there.

Mr. SKELTON. Thank you.

Mr. Bilbray.

Mr. BILBRAY. Thank you, Mr. Chairman.

I would like to point out a couple of statements that were made. One, that young children are running around at 2 or 3 o'clock in the morning throughout the casino at the MGM.

Nevada gaming regulations prohibit that from being done. They prohibit young children from loitering in casino areas, and it is enforced thoroughly. But if Ms. Lorenz saw this, let me tell you, it is not the common habit. It is against the regulation as well as it is forbidden for people under 21 to gamble in the casinos. That is also rigorously enforced.

Second, it was made — the point that Nevada has a serious problem with gamblers who have become addicted to the habit. There is no question that in any particular type of entertainment, some people, you get involved to the point that they can go over and over again and become addicted to it.

Nevada does have programs. Grants are given by the various casinos to help fund a lot of these programs in the State, mostly through Gamblers Anonymous. They have 45 meetings a year, and there are grants that are given at different times to help with these different programs.

I know about personally some of these programs are paid for — when you have a dealer in a particular casino that becomes addicted, that hotels are very supportive in trying to help him through these problems through their insurance programs.

In the case of Nevada almost every single casino that I know of provides health insurance for their employees, contrary to what it may be in Deadwood. We think that we recognize that we have problems, but you have problems with drugs, you have problems with liquor and other types of abuse that takes place. Gambling, I guess, is no different than others, that some people can do it in excess. We hope that that is not the rule.

One of the things that made Nevada, I think, unique in gambling from the 1930's on is that you have to travel to Las Vegas to gamble and when you finished, you leave. What is happening in the local communities, like in Mississippi, is it is drawing a more local

group. You can drive from L.A. to Las Vegas in 5 hours, but in the old days it took 7 to 8 hours.

We also recognize that we have had gambling in every one of your States over the last 50 over 60 years. It just hasn't been on the surface. Illegal gambling functions in every State in the Union. It is estimated by the Justice Department that there is certainly more revenue being derived by illegal gambling than there is in legal gambling.

In most States, you have racetracks and lotteries, other things that are involved in gambling, too. The fact is that, whether or not we like it or not, gambling has been here.

Nevada casinos are mostly large corporate ownership now — the Hilton's, Ramada's, and the Sheraton's. These corporations are large, publicly traded and monitored and very, very closely watched by the Nevada Gaming Control Board so that organized crime does not get in.

But if you allow unregulated gambling where you don't check the people involved, you can have a serious problem with organized crime entering the field.

But we think that in the case — we recognize that some people cannot gamble and shouldn't gamble and have a real problem, as Ms. Lorenz has said. But we hope that Nevada recognizes this.

Casinos are encouraged to watch out for those people who exceed their ability to pay and who are obviously beyond the pale in dealing with the casinos. Some casinos enforce this very rigorously, and others do not. But it is a fact that I will bring up with my Gaming Control Board when I return to make sure that these particular type of activities are enforced.

Mr. GRINOLS. You asked how many families are affected. The individual numbers that I have seen are 1.5 to 5, maybe 6 percent of the population as a percent of adults. But if you want to do it by families I would imagine that figures would not be too much different than that.

I want to respond to one thing that Mr. Bilbray said. It is true that there has been gambling for a long time, but it has increased a lot with the result of cheaper gambling or more readily available gambling.

I will give you a couple of figures here. In 1990 for Chicago there were 902,000 household gambling visits, and 760,000 of those went to Atlantic City or Las Vegas. Three years later — and this is after the casinos were introduced into Illinois — there were still 760,000 household visits to Atlantic City and Las Vegas. But in those 3 years the number of household gambling visits rose from 902,000 to 2,539,000. It does increase the amount of gambling when you introduce it. There is no question.

Mr. BILBRAY. Is there any record — of course, when illegal gambling goes on — we know in Chicago there was illegal gambling. We know in other States. Is there any record of how many of those people were frequenting illegal gambling facilities within the State?

Mr. GRINOLS. As you can guess, no, I don't have numbers on that. But my guess would be that instead of people turning from illegal gambling and converting to legal gambling that the outcome of increasing all kinds of gambling, including increasing legal gambling is more likely.

Even for Las Vegas where people take their gambling problems back home with them, I think if you check you will find that the suicide rate in Nevada is double the national average. I have read other statistics that show that Nevada is probably suffering from the same kinds of things that gambling causes generally, even though it is the best kind of situation that you can set up: Having people come from someplace else do their gambling and go back home.

Mr. BLOOMBERG. One of the things that we have noticed is that, prior to the legalization, illegal gaming is entirely dominated by males. It is sports betting and back room poker games. When you legalize games and you legitimatize it, you open up the female population and expose them to gaming, and that is where we see an increase in terms of the local level.

Mr. GOODMAN. I wonder if I could just add to what was said. The realities in terms of problem gambling — those are the figures that are used, 1.5 to approximately 6 percent of the adult population in a particular State. It seems — and I think Dr. Lorenz will probably support what I am saying here — it seems to be a function of how long a particular area has had gambling and how many different kinds of ventures.

So, that if you look at States, for example, like Iowa where there hasn't been much gambling, only recently introduced, but 1.5 percent of the adult population. You look at other States, like Connecticut, that is about the highest I have seen: 6 percent of the adult population. As new gambling ventures are added, those figures will go up. That has been the situation in the past, and it is likely to increase in the future.

So, in terms of problems and dealing with problem gambling and the costs of problem gambling, you are likely to see in those areas that get more and more saturated with gambling that the prevalence of problem gambling is likely to increase.

The second point, if I could — but I would be happy to wait.

Mr. BILBRAY. I was saying that if you are advocating that we should limit gambling to Nevada, I go along with that.

Mr. GOODMAN. I am not advocating that at all. My research and my view is not to take a view for or against the legalization of gambling. What we have been critical of is that communities and States all over the United States are legalizing gambling without any idea of what the economic impacts are.

We have seen when you get to what the industry calls convenience gambling, that is not what exists in Nevada. It is a very different situation. That economy doesn't exist anymore. What exists now is the spread of convenience gambling.

When that happens what you are doing is having major impacts on your local economy. You are affecting existing businesses because you are diverting dollars out of those discretionary spending, entertainment, apparel, the things that you have heard before, plus you are having to pay the costs of increased problem gambling.

You are already paying the cost of problem gambling in all of these places, but the more ventures you put in, the more you increase those costs. Those are serious costs. Not just the cost of counseling people. I mean, that is a part of the costs.

But the cost — as you have heard before, people who don't pay off their debts or lose their jobs or get involved in the criminal justice system, those are substantial costs. You have got these two major costs: The diversion of money out of local businesses and the increased costs of problem gamblers.

The one other thing, if I could say, I am glad to hear the head of the Chamber of Commerce from Tunica, Mississippi, and to hear the statistics, but in a sense, and with all due respect to Nevada and to Tunica, Mississippi, those are the two extremes.

In a sense, the major expansion that is occurring is in places that don't have these extreme versions. In the one case, a State whose economy is literally dependent on gambling, that is, the State economy, and in another case, a city which had literally no economic base or very little economic base to begin with. A city like that, virtually any economic development enterprise you would create or bring there would have a positive effect. It could be a nuclear waste disposal site. Anything that——

Mr. BILBRAY. Don't bring that up to a Nevadan.

Mr. GOODMAN. I know that is a sore point. But, statistically, if you start with one and then you have two, you have a 100 percent increase. So, to parade those figures and to see that as a basis for national policy in terms of the expansion——

The truth is, gambling does create jobs and brings in revenue; but the reality is, it has costs. Without looking at the costs or without looking at the effect on the other businesses in the economy, then you have a very misleading representation of what the real impacts of this industry are. Any taxpayer in this country knows that at the end of the year, looks at the income and looks at what it costs to get there. This is not sophisticated economics.

This is what States are doing without looking at the costs. They are looking at affecting their local economies without looking at what the real costs are. You are looking at highly developed, sophisticated economic bases, major cities, Philadelphia, Pittsburgh, Chicago, et cetera, medium-sized cities, that have economic bases. They may be in decline, and they may be have some problems, but they are going to impact those bases. These are not Tunica, Mississippi.

Mr. SKELTON. Let me add one comment. I thank Mr. Bilbray for his comments. Because of your unique position — where you reside back in your home — and your understanding, I think your statements added a great deal to the record, and we do want to thank you, Mr. Bilbray, for that.

Mr. Sarpalius.

Mr. SARPALIUS. Thank you, Mr. Chairman.

In analyzing how this affects small businesses there are two interesting pieces of testimony between Mr. Franklin and Mr. Bloomberg. Mr. Bloomberg talked about a town in South Dakota, Deadwood, where he started gambling November 1, 1989. It has now been going on for about 5 years. I would assume that that particular town was not a blossoming economy before it was put in.

Then, we hear from Mr. Franklin who also represents a very low income community. His area has had gambling in existence for 2½ years. Yet, we are hearing two totally different stories here.

Mr. Franklin, I want to ask you first. What have you done or what has your community done to prepare yourself for any increase in crime or dealing with compulsive gamblers?

Mr. FRANKLIN. Congressman, right now, to deal with the increase in crime, I believe our police force in the county has more than tripled, and the budget for them has gone the same way.

As I mentioned in my testimony, we are experiencing several different growing pains. When you take a county like Tunica that was the poorest in the Nation with no infrastructure, there was really no need for the law enforcement that it takes now. An increase in crime has been generated just by the numbers of people, which I believe the economist mentioned earlier. For that reason has increased. But we are moving in the right steps in that area to handle the increase.

As far as addictive gambling within the county is concerned, I have not personally heard of anyone losing their homes or not being able to send their children to schools.

However, there are several different locations that help compulsive gamblers. I believe that Memphis, Tennessee, has started a Gamblers Anonymous program and other areas of our State have done the same.

Mr. SARPALIUS. Mr. Bloomberg, what advice would you give to Mr. Franklin to prevent their community from winding up in such an economic problem that you say you have?

Mr. BLOOMBERG. There are a number of issues they should address. Number one, I think the local governments should be careful, I think, to not tie gambling revenues to their general fund. When you do that, then you have made a commitment there that you can't back out of the next year without cutting some type of social program, et cetera. I think it is important for any government that is looking at it, including State governments, to tie those revenues to some type of dedicated funding for the future.

So, if you cut gambling out in the future, then maybe you are getting rid of additional parks or capital expansion. But don't tie it to your general fund where you can't back out of it in the future. It gives you the option.

Number two, I think it is very important that some of the funds from gaming be dedicated to the costs of gaming. As we have heard — and we made the same mistake in South Dakota. Initially, we started out with no type of addiction program, no type of counseling. Only in recent years has some money been put toward that.

Some of the money should be put toward addiction programs at the outset so that the costs that we know is a given with gaming will be dealt with by the gaming industry and the gaming player versus the other taxpayer. I, as a nongaming person, should not have to pay for those costs that are going to be incurred.

Second, I think some of the money should be put toward law enforcement because you are going to have some additional increases in that regard.

Finally, and we have touched on this before, I think it is imperative that there is strong regulation of gaming in any community. The States or communities that are considering gaming without very extensive background checks and without extensive regulation are just opening the door to trouble.

It has been discussed, the problem with underage persons in the various casinos. We had that problem initially, too. My office conducted a sting operation about a few months after gaming started, and over half of the gaming establishments were caught allowing underage gamblers in their establishments, either drinking or gambling.

Once we conducted that type of sting operation and the Gaming Commission came down on some of those individuals rather hard, we haven't had a problem with that. But you have to have those kinds of enforcement mechanisms and regulations or people are going to push it to the limits.

I think those are very critical areas.

Mr. FRANKLIN. If I could respond to that, as far as the way Mississippi in particular, Tunica County has handled underage gaming. I would like to say that our industry in Mississippi has followed Congressman Bilbray's model of Nevada. In Mississippi gaming is a highly regulated industry. Since we are a dockside gaming State, there is a vast difference between our barges where you are allowed to gamble and the land-based developments that surround the barges.

Underage children are not allowed to go onto those barges at any time. So we are, in that phase, trying to keep out as many underaged gamblers as we can.

As far as tying funds from gaming into our general revenue, as I mentioned, we have put an additional $1.4 million into our school systems which was direly needed. Most of our money that we are receiving at the present time is going into our road funds to improve the infrastructure and the water and the sewage systems. I think that our county has completed the necessary studies to use these new monies in the correct way.

Mr. GRINOLS. Could I add something? I think it is relevant.

Your question suggests that the way to deal with this is to make the proper preparations and allow the money to be set aside. If you take Las Vegas and Atlantic City as the examples, we know people living, say 35, maybe as far as 50 miles away per adult will lose somewhere between $110 to maybe $200 a year at the casinos, depending on which of those two cities you want to use.

The social costs that have been estimated work out, as I said, to somewhere between $100 and $300 per adult throughout the whole population where there is a lot of gambling and all of these problems have reached their full level. That means, if you take the best numbers on one extreme, you would have to devote half — and if you take the other numbers on the other extreme, more than all of the gambling revenues — to pay for the social costs that are created by gambling. So, it is somewhere between 50 percent and more than all of the money that would have to be set aside.

Now, of those gambling costs per adult, I should point out that a large fraction of those are lost productivity costs. When someone who is earning 40,000 a year or 50,000 a year loses control of their life over gambling, they stop showing up for work or they get put in prison or in some way stop working. You are talking about somebody who is not producing $50,000 worth of whatever they were producing before.

If you take the social costs, you might say one third to one half of those social costs are lost productivity. That shows up for the Nation as a whole in lower taxes collected, but those costs are borne primarily by the compulsive gambler himself and his family. So if you want to factor that in you might adjust the numbers that I just gave you.

Mr. SARPALIUS. One more thing to Mr. Bloomberg. My time is about up, and I find this very interesting. I see two communities that have an awful lot in common, but your community winds up with some serious problems while Mr. Franklin's community is prospering.

Mr. Bloomberg, in your statement you said you had seen 1,500 gambling-related new jobs created and 600 spin-off jobs. What are the spin-off jobs?

Mr. BLOOMBERG. Jobs in banks, service industry, small business jobs.

Mr. SARPALIUS. You also stated how many people were losing their jobs such as shoe salesmen and people like that.

Mr. BLOOMBERG. The people who were there before gambling whose business sold their real estate for a gaming operation. Now they are out of that job as a car mechanic at the car dealership. A number of those people moved out of town.

Mr. SARPALIUS. Has unemployment increased or decreased?

Mr. BLOOMBERG. No. As a matter of fact, we had a fairly low — in the range of 2 percent — unemployment before gambling. We had a pretty healthy mining industry, timber industry and tourism before gambling. So, we were not really out looking for a lot new jobs, at least as a whole.

But what it has done is brought new people in and new jobs, and we are still around the 2 percent level in terms of unemployment.

Mr. SARPALIUS. One last point, you just suggested to Mr. Franklin about utilizing some of the funds to increase police officers. Also in your statement you talked about — or through the revenue with taxes had jumped from $1.4 million to $9.1 million, and I stated that some of that money was used to increase the police force. Are you saying that that might have been a mistake that you have made? That you didn't put enough money in there or——

Mr. BLOOMBERG. No, I think what the mistake was that that effect was not anticipated ahead of time. I think governments need to go into this with open eyes, and if they expect a million new visitors to come as a result of gaming, they should anticipate additional social costs such as law enforcement.

What we have done in South Dakota — and I have been a part of it, frankly — is make the mistake of being reactive rather than proactive. I think some of the areas around the country have learned from our mistakes.

Some of the negative people, they were in our area as a result of gambling that were driven off through one mechanism or another. I had phone calls literally from people in Mississippi checking up on those individuals because they went from our State right down to the next one to try to get their foothold. So, people have to be proactive I think.

Mr. SARPALIUS. Thank you, Mr. Chairman.

Mr. SKELTON. Let me ask a clarifying question, Mr. Franklin. I didn't hear the first part of your testimony. Under what change in the Mississippi law enables your county to be the gambling center of your State?

Mr. FRANKLIN. In 1990, the State passed what is called a dockside gaming law that allows——

Mr. SKELTON. Riverboat gambling.

Mr. FRANKLIN. Yes, sir, or along the Gulf Coast. We are strategically located in that Tunica County did pass gaming. Gaming, is allowed by a county-by-county referendum basis that, I might add, is regulated by the State.

It was mentioned in other testimony that these referendums in Missouri keep coming up every 6 months for a new vote. In Mississippi, if a county votes and denies gaming and it is a legal county, they cannot have another vote until the next Presidential election. I think the Mississippi legislature has made great steps in that as well.

Mr. SKELTON. Mr. Klink.

Mr. KLINK. Thank you. I appreciate your testimony.

This is of particular interest to me because I represent a district in western Pennsylvania near Pittsburgh, and we are giving consideration to riverboat gambling. Our gubernatorial election may in large part be decided on whether people are in favor and which candidate they view most favorably in light of riverboat gambling.

One of the towns that I represent, Aliquippa, at one time had LTV Steel which covered 7 miles along the river. That mill is no longer there, and, in fact, about a 5.5 mile site has been purchased by a developer that wants to set up riverboat gambling. So, this hearing could not come at a more opportune time.

I appreciate the comments about what happens to some of the small businesses in light of riverboat gambling because we know that many times these gambling casinos bring with them their own bars and restaurants and boutiques and that, in fact, a lot of small businesses close up. We know that there will be businesses that will take advantage of the increased property values, a chance for new people to come in and make investments.

I was just interested, Mr. Bloomberg, do you have — you talked about the real estate values jumping in Deadwood at the time that this development — do you have a real estate transfer tax where the school district and the community get — at least have a share-the-wealth card when these properties are sold and bought?

Mr. BLOOMBERG. We have a transfer tax. It is very low and, basically, is — has been of no benefit to any of the local governments.

I might add that none of the gaming money — and it is just a law particular to South Dakota — has gone to education. One of the real problems is that you have more kids coming into the school district and no additional dollars, at least directly from gaming taxes, to help with that situation. That may have been a mistake or is a mistake in our law.

Mr. KLINK. I can understand in Mississippi why you were giving some consideration with 26 percent unemployment. If your unemployment was good and the mining industry was going well, what was the impetus there? If it ain't broke, why fix it?

Mr. BLOOMBERG. What it was, a small number of bar owners that saw this as an opportunity for very small-scale gambling to pick up some additional cash flow in the slower part of the year. A group of those small bar owners formed a group called the UBEC Committee, and they went out Statewide and worked very hard on the Statewide initiative.

After it passed, got out of the hands of those local individuals, and we were inundated with people from outside of the area and outside of the State who have come in and taken advantage of that situation.

Frankly, one of the interesting aspects of this has been the struggle between that local group, core group that started gambling and this out-of-State group that has come in. There has been political battles on the local level and also on the State level between those groups over the control of the industry and the various aspects of it.

So, it was just a group of small businesspeople who thought, well, we can pick up some additional trade in our bars. They saw it as a poker game in the back room and a handful of slot machines. That was the original vision, and it quickly exploded.

Mr. KLINK. That is, again, part of my concern. The genie is out of the bottle, and Pandora's box is open. Whatever description you want to use of it. That is my concern. But I also have another balance concern.

We have a couple of fair sports teams in the Pittsburgh area, and it happens to cultivate a lot of interest. As a result of that people who I have known and have associated with for many years tend to wager a bob or two on a ball game now and then. In fact, there is a lot of money that is spent wagering on sports bets, and we have got the problems that that creates, but we don't share any of the wealth when that occurs because it is illegal.

Now, the State of Pennsylvania has a lottery. You can play the daily number or any one of vast numbers of games. But, yet, the illegal numbers activity is also thriving.

In fact, recently deceased reputed numbers boss, Tony Grosso, was estimated by the Pennsylvania Crime Commission back in the early to mid-80's to be making $80,000 a week from his illegal numbers activity.

I can remember in my previous life as a news reporter going out with the Pennsylvania State Police when they were going on these gambling raids. We hit one house in Braddock, Pennsylvania. In fact, it was owned by a lady at the time who was running for Congress, and they were running sports gambling out of there. At the time — it was before the Penguins were very good — there was not a lot of interest in hockey. They were doing at least $150,000 to $250,000 a week in hockey bets, millions of dollars in this one house in Braddock in football and in baseball bets and other sports bets.

We have offtrack betting. We have a lot of our senior citizens going back and forth to Atlantic City. Gambling exists, both illegal and legal, and people are doing it, and we are getting no benefit from it.

So, the question is: What do we do about it? How can we begin to at least cultivate it to the point where we are sharing — we, the

Government who has to take care of the problems, has to cultivate the infrastructure and provide the services — is at least sharing some of the benefit? Right now, it is all going their way.

The only people who are making any money right now — the State of Pennsylvania makes some money, and it goes to the senior citizens. USAir and the bus companies are making money because they are shipping our citizens to Atlantic City and Las Vegas. I share your concerns about the bad part, but we also have the bad part right now.

Mr. GOODMAN. I would like to address that, if I could.

I think the critical word you said was cultivate. It seems to me that this is a decision that policymakers have to make, whether they are going to cultivate this activity.

You know what existed in Atlantic City existed over 17 years ago. For 17 years there was not, as I understand it, and perhaps you will correct me, there was not a wave of enthusiasm in Pennsylvania for legalizing gambling among policymakers.

Mr. KLINK. That is correct.

Mr. GOODMAN. So the critical thing, it seems to me, just in terms of seeing what the argument is and seeing where we ought to be going with this, is that there is something happening now that is different than what existed during this long period of time.

I mean, Atlantic City has pulled in over that period of time over $16 billion. We are talking about a lot of money and a lot of money coming from Pennsylvania and New York and Connecticut and other places in this area. The critical thing now is that the economy is much tighter. I don't have to elaborate on that. Global competition, downsizing, et cetera.

So, the idea of gambling now, it seems to me, is not the issue of how we get organized crime out of it. I am not saying that as a policy position. I am saying it seems to me that policymakers are not turning to it for that reason. That after all this time organized crime, people betting on sports, et cetera, was going on. What has happened now is that gambling is being used as a jobs policy, a way of creating jobs.

I think you have to look at it — at least in terms of making policy, you have to look at it pure and simple. Is this a good way to create jobs? Is it a good way to bring in additional revenue to hard-pressed cities and States?

Now, just for a moment to talk about the issue of organized crime. I don't want this to be taken as an endorsement for organized crime, but the States now spend altogether over $300 million every year to advertise their gambling ventures. That is now. That is not talking about what they will be doing in the future if they expand these ventures.

Organized crime does not do this. They don't run full-page ads and TV spots encouraging people to gamble more. They don't get free ads and free promotion on television and newspaper stories about unemployed janitors who suddenly can take vacation trips around the world and send their kids to college.

So, we are talking about government having become the leading promoter of gambling in this country, having shifted from a regulatory role and over time becoming more and more dependent on

it for revenues. Now we are talking about government becoming dependent on it for a jobs program.

The State of New Jersey in 1950 had one gambling venture. It was horse racing. During the 1950's, horse racing provided about 10 percent of the State budget in New Jersey.

Since that time, as a way of trying to keep down taxes, as a way of trying to provide services, they have instituted a whole plethora of gambling ventures: The lottery, all the casinos. They had a monopoly, remember, on the East Coast of gambling for this long period of time.

Two years ago, you had the largest tax increase in the State's history, $2.6 billion. At that time, with all of these gambling ventures, they were only providing 6 percent of the State budget, and the percentage was going down.

So, the point being, to take something like gambling and think that it is going to be a magic bullet for communities and States all over the United States, in the face of what we already know — given, say, New Jersey, for example, and I can cite you other cases——

Mr. KLINK. If I could just reclaim my time.

Again, my point was — and I will tell you briefly that in Pennsylvania 17 years ago the steel mills were going well, the glass plants were going well. There was no need.

Now there was an ongoing effort at various times to legalize poker machines so that the small bars and businesses would be able to have that influx of cash money and the government might be able to get some benefit. They are there now. Law enforcement cannot afford to stop making drug busts and stop doing other things to bust everybody that has an illegal poker machine.

But, like it or not, whether we have it in Pennsylvania or western Pennsylvania or not, those stories that you are talking about are still getting out. People know what is going on. Again, Pandora's box has opened. I don't think — if there was an answer to my question in what you just said, I didn't hear it.

We do have the problems of it. I mean, if you are going to — people are desperate now because we don't see those jobs coming back. We know that those steel mills are not going to come back. So, the question is, what do we do with gambling going on anyway? With us having the problems of gambling? That is the question. Then does Government get into that?

I might ask Mr. Franklin, because your area — it sounds to me that the unemployment rate that you were talking about is very similar to what I have in Aliquippa. What did you do so that you didn't have the problems that we are hearing from Mr. Goodman, Ms. Lorenz, and the others?

Mr. FRANKLIN. Well, I think that one major issue is that in Mississippi, gaming is highly regulated. The majority of casinos are major corporations that have come into our area and set up gaming establishments much like Las Vegas and Atlantic City. Our casinos are not like the ones that the city attorney from South Dakota describes in his area.

But he talked about being reactive instead of proactive. Any time a billion dollars worth of industry in a little over 2½ years comes into a community, you are going to have to react. We did a land

use development study in Tunica County before gaming arrived, and I would say 3 months later it was totally outdated.

There are several ways that you can prepare for things like that, but, right now, due to the vast amount of money and people who have come in, we are reacting and trying to do the best job that we can.

Mr. KLINK. Mr. Chairman, I apologize for taking a little bit more than my normal share of time, and I yield back.

Mr. SKELTON. That is fine. I think it is important that all the questions be asked and that the subject matter be thoroughly discussed and reviewed.

On behalf of the Chairman and the rest of the committee, we want to thank each of you for coming. It is a very important subject, and I know each of you came a long way and contributed. This is an example of democracy in action. We appreciate your participation. Thank you.

The hearing is adjourned.

[Whereupon, at 11 a.m., the committee was adjourned, subject to the call of the Chair.]

APPENDIX

OPENING STATEMENT by
CONGRESSMAN RICHARD H. BAKER
House Committee on Small Business
September 21, 1994 Hearing on
"The National Impact of Casino Gambling Proliferations"

Mr. Chairman, I thank you for calling this hearing on an issue of importance to our nation and our Committee. I am genuinely pleased to take part in this hearing designed to afford greater protection to Americans, small businesses, and communities nationwide.

The subject matter of today's hearing is the national impact of casino gambling proliferation. I have reviewed the written testimony offered by all of the witnesses, and it is abundantly clear that casino gambling has a tremendous impact on the surrounding communities. I have also had the opportunity to witness firsthand, the impact that gaming has on the state and local economies of Louisiana and Mississippi. I look forward to hearing the expanded debate this afternoon as we continue to educate and to enlighten Members of Congress on the finer points of this troubling issue.

Generally, states and local communities view casino gambling as an economic development tool. Rural towns in Mississippi have become booming metropolises because of the impact of gaming. In July of this year, five

gaming riverboats in Louisiana took in $52.5 million from its patrons. The gambling interests then paid $9.7 million in state taxes and $3.5 million in local taxes. I am particularly sensitive to the gaming issue because in my district, the Sixth Congressional District of Louisiana, a land-based casino has recently opened on the Tunica-Biloxi Native American Reservation near Marksville. Many constituents have expressed their concern over the unseen, or social costs, associated with the gaming industry coming to your neighborhood. Local businesses and local and state elected officials have contacted me and raised concerns over how the local community will bear the costs of casino gambling. Their concern is confirmed by many of the witnesses here today.

This hearing is an excellent forum to explore the impact of casino gambling. I have many questions that I hope will be answered during the course of today's hearing: What kind of jobs are created by gambling? Which businesses are cannibalized? How is the community's transportation and utility infrastructure burdened? How should the judicial system and local law enforcement officials best handle the increased rates of serious and personal property crimes and bankruptcies? How should gambling addicts be treated? How much income is shifted to the gaming industry? As casino gambling proliferates, what will the net benefit, if any, be to the state, local, and Native American communities? And, how can communities be protected from the real and social costs associated with the gaming industry?

For these reasons, the testimony and comments this morning will serve to instruct the Committee on this issue, and myself particularly as it concerns ongoing situations in my own congressional district. Economic development is import to every community, but I believe the impact of casino gambling as an economic development tool is not yet fully understood. I thank all of the panelists for their participation, and thank the distinguished Chairman for exploring this issue at this time.

OPENING STATEMENT OF
U.S. REPRESENTATIVE
RON KLINK

COMMITTEE ON SMALL BUSINESS
HEARING ON NATIONAL IMPACT OF CASINO GAMBLING

SEPTEMBER 21, 1994

Thank you Mr. Chairman. I am pleased the Small Business Committee has chosen this subject to study.

This issue is especially important to me as the Commonwealth of Pennsylvania has been reviewing the option of legalizing riverboat gambling. With the Ohio River running through part of the Fourth Congressional District, riverboat gambling has been regarded as a solution to the area's high unemployment rates.

Most people in southwestern Pennsylvania remember when jobs were not as scarce and wages were decent enough for families to enjoy life. Like many people of this area, I want very much to bring back industries that will be able to provide these jobs. If riverboat gambling is a viable solution, then I agree that we should pursue it. However, I have concerns that gambling is thought of as a cure-all solution.

While it is true that cities such as Aliquippa, which border the Ohio River, would gain immediate benefits due to increased construction of facilities, what would the long term consequences be? Would gambling operations also build their own bars, restaurants, and hotels and thereby force existing small businesses to close? What kind of employment opportunities will exist for local workers at gambling facilities? The lure of new jobs makes it seem easier to say "yes" to gambling, but what if these jobs are low-wage, part-time jobs without benefits?

Obviously, a thorough analysis of the impact gambling operations would have on local businesses should be done. Small businesses have helped bring back some of the jobs lost when the steel mills shut down. If our local economy should lose the diversity of it's small businesses we could end up relying on gambling alone and taking the chance that riverboat casinos will be the remedy for our economic problems.

I look forward to having some of my questions answered by the witnesses before us today. Thank you again, Mr. Chairman.

Statement of

HONORABLE JOHN J. LaFALCE, CHAIRMAN

Committee on Small Business
U.S. House of Representatives

Hearing on

The National Impact of Casino Gambling Proliferation

September 21, 1994

The Small Business Committee meets this morning to examine the impact of casino gambling on the nation. We are drawn to this topic due, in large part, to the fantastic growth of the casino industry in recent years. If you pick up a newspaper from just about any city, in any state in the country, you can read about a local referendum on casinos or the construction of a new gambling complex. A recent New York Times Magazine cover story offers a striking portrayal of casino proliferation:

> **"Gambling is now bigger than baseball, more powerful than a platoon of Schwarzeneggers, Spielbergs, Madonnas, and Oprahs. More Americans went to casinos than to major league ballparks in 1993. Ninety-two million visits! Legal gambling revenues reached $30 billion, which is more than the combined take for movies, books, recorded music and park and arcade attractions."**

The article goes on to state that within a decade, virtually all Americans will live within a four-

hour drive of a casino.

What is the cause of this growth? I suspect there are three primary reasons, all centering on a competitive atmosphere to attract the gambling dollar. First, states are competing with Indian tribes, both in a race to build casinos ahead of the other. Second, states are competing with other states to lure potential gamblers across state lines. Finally, with the recent success of a casino development in Windsor, Ontario, where 80% of the patronage consists of Detroit residents, there is a competition developing between border states and Canadian communities to our north.

I hope to explore the causes of casino proliferation in the future. Today, however, we focus on the impact of this proliferation, examining the benefits and costs to individual communities and to the nation as a whole.

In terms of benefits, there is no question that casinos generate revenue, not only for casino owners but for local and state governments. Recent windfalls in casino revenues have provided relief to many resource-strained state and local governments, allowing, in some cases, for levels of spending on education, building-preservation, and other public services that have not been seen in years. This is new money flowing into what have been some of the poorest regions in our country. The casinos themselves have provided jobs in places where the opportunity to work has long been absent. These are clearly social and economic benefits accruing directly from the recent emergence of casinos in places like Tunica, Mississippi and Deadwood, South Dakota.

And if this were the end of the story, if casinos were typical businesses in the recreation industry, there would be little reason for us to focus on the impact of their explosive growth, except to applaud the success of casino owners. But casinos do not appear to be typical

businesses. In social and economic terms, casinos may have significant externalities that we do not see in other businesses or industries.

Specifically, I am concerned about the consequences of casino proliferation in three areas: the impact on other small businesses, and more broadly on the economic well-being of communities nationwide; the impact of casino growth on gambling addiction; and the impact on levels of crime. In each of these areas, there is an emerging body of evidence to suggest that the pace of future casino development should be more measured and further growth should receive more careful scrutiny at the local, state, and national levels.

This is exactly what the Commission on the Review of the National Policy Toward Gambling recommended back in 1976 when the issue was last taken up at the national level. At the time of the Commission's report, casino gambling was legal in just one state, Nevada, where casino revenues were a little over $1 billion a year. Today, casinos are legal in 23 states, and are generating annual revenues in excess of $30 billion.

At the national level, the impact of casino proliferation on existing small businesses appears to be mixed. Some businesses will likely benefit from the increased traffic in a community that casinos create. On the other hand, we know that Americans have a fixed amount of entertainment income; if they spend more of it on gambling, then it would seem that they will spend less of it on movies, restaurants, and sporting events. This is one important question we will consider today: do those who gain from casinos do so at the expense of other businesses, other communities, and other states?

Turning to the issues of gambling addiction and crime, evidence suggests the two are inextricably linked. The American Insurance Institute estimates that as much as 40 percent of

all white collar crime is committed by individuals who have serious gambling problems. Another question for us to consider today is: to what extent does casino proliferation lead to a proliferation of compulsive gamblers?

In some cases, the potential problems created by casino gambling are not necessarily inherent to the nature of the business, but arise as a result of particular casino practices. For example, I was disturbed to hear that many casinos offer incentives to patrons to cash their paychecks at the casino. It is also common practice among casinos to offer food, beverages, and lodging to patrons below cost. Both of these practices have likely victims; in terms of check-cashing, it is the compulsive gambler, who has lost control of his or her spending at casinos; in the latter case, it is other small businesses who are unable to compete with the prices that the casinos offer.

This morning, we want to hear the full story on casino proliferation. We hope to gain considerable insight into the benefits and the costs associated with casino proliferation, both for individual communities and for the nation as a whole. To help us identify the costs and benefits of casino gambling to our nation, we have an expert panel of witnesses.

First, we are pleased to welcome **Robert Goodman**, director of The United States Gambling Study and Lemelson Professor at Hampshire College. Professor Goodman's study, funded by the Aspen Institute and the Ford Foundation, stands alone in its superb synthesis of collective knowledge nationwide on the topic at hand.

Next, we welcome **Earl Grinols**, professor of economics at the University of Illinois. Dr. Grinols has devoted considerable effort to analyzing the economics of casino gambling, both at the state and national levels. We look forward to his insights today.

We next welcome **Valerie Lorenz**, director of the Compulsive Gambling Center in Baltimore, Maryland. Dr. Lorenz is a nationally-recognized expert on compulsive gambling and has devoted much of her career to bringing more national attention to the issue.

We will then turn to two local perspectives on the casinos issue, welcoming **Jeffry Bloomberg**, State's Attorney for Lawrence County, South Dakota, and **Webster Franklin**, executive director of the Tunica County Chamber of Commerce, in Tunica, Mississippi. Both have seen their communities change dramatically due to casino developments. We look forward to their valuable insights today.

Finally, I will submit two statements for the record. First, Representative Frank Wolf has requested that we submit his statement along with attachments. Mr. Wolf has followed the issue of casino gambling with concern in recent years. We welcome his statement. I would also like to submit for the record, the statement of the Honorable A.J. Holloway, mayor of Biloxi, Mississippi. Mayor Holloway was unable to attend the hearing today but his insight, offered in the letter, is valuable. I suspect that the Mayor's perspective is a common one in communities across the country: casinos have generated revenues for Biloxi that no one there could have dreamed of just five years ago. And yet, Mayor Holloway expresses concern for the continued rapid pace of casino development in the region.

TESTIMONY

OF

HONORABLE JEFFRY L. BLOOMBERG

STATE'S ATTORNEY, LAWRENCE COUNTY, SOUTH DAKOTA

BEFORE A HEARING OF THE

HOUSE COMMITTEE ON SMALL BUSINESS

CONCERNING

THE NATIONAL IMPACT

OF CASINO GAMBLING

PROLIFERATION IN THE

UNITED STATES

My name is Jeffry Bloomberg. Since 1982 I have been a prosecutor, first as a deputy States Attorney and since 1986 as the elected States Attorney of Lawrence County, a county of 21,000 in the Black Hills of western South Dakota.

Until November of 1988, I had no background or interest in the issues related to casino gambling. However, in that year the citizens of South Dakota passed a constitutional amendment which allowed so called "limited," casino gambling in Deadwood, a town of 1,800 people and the county seat of Lawrence County. Perhaps because Deadwood was the first place outside Atlantic City and Nevada to legalize casino gambling, my office has been contacted by dozens of journalists, government officials, and private citizens seeking information on the effects of casino gambling on a small community.

Since that time, as I have traveled to various states which have been considering casino gambling, the promoters of gambling have uniformily made the same pitch, "economic development, new jobs and lower taxes." While these goals appear lofty, I believe that it is imperative that government leaders and citizens scrutinize these claims very closely before opening the Pandora's Box of gambling because as we have learned in Deadwood, once gambling is legalized it is virtually an irrevocable decision.

No one predicted the dramatic changes which took place in Deadwood once gambling actually commenced on November 1st, 1989. Within two or three months, a mainstreet that was typical of any small town was converted to a four block strip of small casinos,

now totaling 82 separately licensed gaming halls. Gone were the clothing, shoe, hardware, and grocery stores as well as three separate car dealerships, all converted to gambling establishments. Many of the necessities of life such as clothing are no longer available within Deadwood and customers of the town's only remaining grocery store walk a gauntlet of slot-machines as they exit with their purchases.

Real estate values sky-rocketed. Commercial properties, which before gambling were valued at $150,000 sold for $500,000 one day and more than $1,000,000 the next. Of course this windfall was relished by the former property owners, but it did nothing for the auto mechanics, store clerks or other employees who were suddenly without jobs. They were faced with the decision of either moving away or finding new jobs in the gaming industry.

The town's economy, which was previously based on gold mining, timber and family orientated tourism, quickly became dominated by the gambling industry. According to one study, approximately 1,500 gaming as well as nearly 600 spin off jobs were created by the legalization of gambling. Because of the geographic location of Deadwood within a mountain canyon, very little room exists for housing expansion, thus, most of the new employees live in surrounding communitties and commute as much as 50 miles to get to their jobs.

This overnight transformation created enormous problems for the infra structure of Deadwood and its city government. Parking, streets, water and sewer lines all proved to be inadequate. The City was faced with a dilema. The needs were immediate, but cash

flow from gaming taxes would not be sufficient for years. Thus, the city counsel decided to sell revenue bonds pledging revenues from predicted gaming and sales taxes to finance the improvements. The result was a municpal building boom which has updated the city's infra structure, but which has financially tied the city's economic viability to gambling. If the citizens of Deadwood wanted to get rid of gambling today they could not without total bankruptcy.

For the most part, the jobs which were created earn minimum wage or slightly better and are without benefits. Many are seasonal and face layoffs after Labor day when the summer season has ended. Even many of the "licensed," support workers such as black-jack and poker dealers, pit bosses and other gaming personnel depend on tips to make a living.

The economic effect for the gaming entrepreneurs has also been a mixed bag. While only a handful of casinos have closed in the nearly five years since the birth of Deadwood's gaming industry, today they claim that over half of their businesses are operating at a loss. On the other hand, other gaming operations, those which combine ownership of multiple casinos in particular, appear to be making handsome profits.

As for the claim that gambling brings tax relief this simply has not proven true. In fact, real property taxes for both residential and commercial properties have risen each and every year since gambling was legalized. This has ocurred for several reasons. First, because of the dramatic increase in property values the assessments for virtually all property also increased

whether they be gaming, non-gaming, commercial, residential, or agricultural in nature. Secondly, while gaming has generated nearly six million dollars annually in gaming taxes to the city and county those amounts have been eaten up by increased administrative, law enforcement, and infra-structure costs. The city of Deadwood went from a pre-gambling 1988 budget of $1,430,919 to a 1994 budget of $9,113,796. As an example, the police force of five officers more than doubled to eleven full time officers.

In my office we have also seen our case load more than double as set out on the chart which is attached to my written testimony. This increase in criminal case load is attributable to two areas. First, the largest increase is attributable to the simple fact that there are more people working and visiting Deadwood than before gambling. While it is true that any increase in visitors will statistically result in higher crime rates than before, I believe that the type of visitors we are attracting results in numbers higher than in a more family oriented tourist community. Compare crime rates in Atlantic City versus Orlando, Florida, for a demonstration of this principal on a larger scale.

But even if you attribute the bulk of the increase in crime to simply more people, there is a second category of increase that is due to the nature of gambling itself. It is this group that I find particularily disturbing for we have seen individuals who, prior to their exposure to gambling had no criminal history, who were not junkies or alcoholics, many of whom had good jobs, who became hooked on slot-machines and after losing all their assets and running all credit resources to their maximums began committing

some type of crime to support their addiction.

In general these crimes are theft, embezzlement, bad checks and other forms of larceny.

Often times the individuals in this category have stolen thousands of dollars and become desperate. I think of the pizza restaurant manager who had a spotless record and embezzled $45,000 from his employers, or the gaming business, book-keeper who, having run up thousands in debt, committed suicide or most tragically the technical sargent in the United States Air Force who, prior to gaming, had an exemplary ten-year military career, who became hooked on slot machines and eventually murdered a casino operator in a desperate attempt to retrieve four hundred dollars in bad checks he had written to the casino. Sgt. Cobb is now serving a life sentence without parole at the potential cost of over a million dollars to South Dakota taxpayers not to mention the loss of training dollars invested by the federal government or most tragically the loss of human life.

Our office has also seen an increase in the number of child abuse and neglect cases as a result of gambling. These run the spectrum from the children left in their cars all night while their parents gamble, to the children left at home alone while their single mothers work the casino late shift to the household without utilities or groceries because one or both parents have blown their pay check gambling.

Interestingly, we have not seen an increase in DUI cases and there has been no evidence of prostitution. In addition, I believe because of the extensive background investigations and regulation

conducted by the South Dakota Commission on Gambling, there is no evidence of any involvment by organized crime. This fact might also be attributed to the low, five dollar bet limits authorized in South Dakota, which helps to minimize any efforts to launder illegal funds.

As to the claim that gambling promotes economic developement, that was certainly true for Deadwood at the out set, but as competition from tribal casinos and other states has escalated the growth in Deadwood gambling has stalled. It has been estimated that by the year 2000 everyone within the continental United States will be within a 4 hour drive of casino gambling. When that saturation level has been reached, who then will want to fly or drive to Deadwood, or Elgin, Illinois, or Biloxi, Mississippi, simply to pull a slot machine lever that they can just as easily pull in their hometown or state? Then gambling will survive almost entirely off of the local economy. One can only speculate as to what other businesses will suffer as a result. This pricipal has already been visible in Deadwood and the surrounding area where a number of non-gaming restaurants have closed due to their inability to compete with gaming subsidized restaurants.

Probably most disturbing has been the growing dependence of local and state government on gambling dollars. Because government officials have been unwilling to make the politically difficult decision to either raise taxes or cut services, they have turned to gambling as a supposedly, "painless," revenue source. The gaming industry in South Dakota, armed with large amounts of cash, has gone from being non-existant seven years ago to being one

of the most powerful lobbying forces in our state capital and virtually every decision at city hall is made based upon what is best for the gaming industry. Government is hooked on the money generated by gambling and I believe in the long term the ramificatione of this governmental addiction will be just as dire as for the individual who becomes addicted to gambling.

Does legalization of gambling bring about short term benefits? The answer at least for Deadwood has been yes, but it remains to be seen whether, in the long term the benefits will outweigh the negatives and any community considereing legalization should take that atep only after careful consideration of both sides of this issue.

LAWRENCE COUNTY CASE FILINGS (SOURCE: SOUTH DAKOTA SUPREME COURT'S ANNUAL REPORTS "BENCHMARK".)

	1986	1987	1988	1989	1990	1991	1992	1993	1994
Class 2	3997	3878	3683	3758	4325	4279	5309	5262	4303
Class 1	629	591	483	507	569	685	900	1008	957
Felony	127	129	131	132	197	178	170	225	226
	4753	4598	4297	4387	5091	5142	6379	6495	5486

TESTIMONY OF

WEBSTER C. FRANKLIN, EXECUTIVE DIRECTOR

TUNICA COUNTY, MISSISSIPPI

CHAMBER OF COMMERCE

BEFORE THE SMALL BUSINESS COMMITTEE, U.S. HOUSE OF REPRESENTATIVES:

Mr. Chairman and members of the committee, it is an honor and privilege for me to express my views on behalf of Tunica County, Mississippi, regarding the effects of gaming on our local community.

Historically, Tunica County was known as "the poorest county in the United States." The county is located in the northwestern corner of the state and is bordered on the west by the Mississippi River. Located 30 miles south of Memphis, Tennessee, in what is commonly called the fertile Delta, our county's economy was almost totally dependent on agriculture prior to the legalization of "dockside gaming" in Mississippi. The production of cotton, rice and soybeans on large farms provided the majority of jobs in the county, and the related agri-service industry was the second largest employer. Mechanization and new technology in agriculture displaced hundreds of farm workers, and until gaming came to Tunica, many citizens were unemployed and welfare dependent. In January of 1992 the unemployment rate was 26.2%, one of the highest in the state; per capita income was $11,865.00, one of the lowest

in the state. In that same time period, 53.18% of the county's total population received food stamps. Public revenue was almost entirely based on ad valorem taxes, and public infrastructure improvements were mainly funded through grants from the state and federal governments. Our county was known for its substandard housing, poor healthcare delivery systems, and sanitation problems caused by inadequate or antiquated sewage systems.

Over the years, Tunica County has been the subject of study by the Harvard Medical School Committee on Poverty, the United States House of Representatives Committee on Hunger, and the Congressionally mandated study of the Lower Mississippi Delta Development Commission. All of these studies have recommended more government assistance to our community, and because of this national attention, we have received over time necessary help from the government. However, the permanent solution to our problems - jobs for our citizens - did not materialize until the introduction of gaming.

The Mississippi Legislature legalized gaming in 1990. The new law authorized dockside gaming on a local county option basis for those counties on the Mississippi Gulf Coast and along the Mississippi River. Tunica County legalized gaming in 1991, paving the way for the economic explosion which quickly followed.

Splash Casino opened its doors for gaming at Mhoon Landing on October 19, 1992. A seven mile, narrow, winding, two lane road led

thousands of new visitors through the City of Tunica to our first casino. Splash enjoyed a monopoly on gaming in Tunica for eleven months before Lady Luck joined them at Mhoon Landing. For the initial eleven month period, when Splash was our only casino, its gaming revenue and profits were unprecedented. Splash, which on September 5, 1994, celebrated welcoming its 3 millionth visitor, became the envy of the national industry.

The industry realized that Tunica County, because of its location, had the potential of becoming a billion dollar gaming market and the nation's third regional gaming destination resort. Investors flocked into our community and quickly acquired rights and control of all available casino sites from Mhoon Landing north to the DeSoto County line. Land values skyrocketed as national gaming companies acquired prime locations and planned massive casinos, entertainment complexes, hotels, golf courses, and restaurants. The per acre price of land suited for casino development has increased from an average of $250.00 per acre in 1991 to $25,000.00 per acre in 1994. Since the inception of gaming, over 1 billion dollars in building permits have been granted by our once inactive and now very busy county planning commission.

In 1993, twelve major casino projects were under construction in Tunica County. New investors eager to open their doors ahead of the competition directed their construction crews to work around-the-clock. Every able bodied person in the county was afforded,

for the first time, the opportunity to work in the construction industry for excellent wages (averaging in excess of $10.00 per hour) and for as much overtime that those workers could withstand. Many Tunica County citizens who had never worked before, except as part time farm labor, started as general construction laborers and learned new skills to become craftsmen, foremen and supervisors in the construction field.

Prior to opening, each casino conducts a training school to teach prospective employees the technical skills necessary to work in gaming. Many formerly unemployed citizens have taken advantage of this educational and vocational opportunity and are now employed as black-jack and craps dealers, slot machine mechanics and security guards. The average annual salary for a casino employee is $25,000.00. Service industry employment for Tunica County residents increased 435% from 1990 to 1993.

Nine casinos currently operate in our community and each facility averages 1,000 employees. The County's unemployment rate has been reduced from a high of 26.2% in 1992 to a low of 4.9% in October of 1993, one of the state's lowest. The unemployment improvement has also impacted some of the social ills historically experienced in Tunica County. The welfare department's collection of child support has increased from a monthly average of $38,500.00 in 1993 to a monthly average of $65,000.00 in 1994. From July 1992 to July 1994, the number of Tunica County residents receiving welfare benefits has decreased 41.4%. Food stamp recipients in the

county decreased by 13% from 1992 to 1993, and that downward trend continues in 1994. More jobs exist in Tunica's casinos (9,000) than there were residents of the county in 1990 (8,200).

Ancillary developments are currently underway. New housing, service sector businesses, recreational vehicle parks, restaurants and motels are currently under construction. Business in Tunica County is booming. Many new service sector jobs are needed. I, for instance, am the first paid director of the Tunica County Chamber of Commerce, and a new Department of Tourism is currently being organized. To illustrate the totality of the effects of this new influx of money and people, the tax collector responsible for selling automobile license plates exhausted his supply and had to re-order because of the demand. In fiscal year 1994 Tunica County recorded the highest percentage increase in retail sales of all 82 counties in Mississippi. The 299.05% increase represented retail sales of $256.5 million compared to $64.2 million for fiscal year 1993.

The Mississippi Gaming Law requires that a percentage of the state tax on casino revenue must be returned to the counties. The anticipated return for Tunica County in FY 1995 is $2.5 million. The county also anticipates receiving additional casino impact fees of $12 million. This new public revenue source will allow the county to continue making much needed infrastructure improvements.

Monday of this week the county started construction of a major five lane highway connecting 5 of our casinos in the Robinsonville area to U.S. Highway 61. Another local highway connecting all of the casinos is approved and in the planning stage. Budgets of local law enforcement agencies and fire departments have been substantially increased. Two new utility districts have been created, and funding has been approved for long range land use development planning. Our public school system is being completely overhauled. The entire community is committed to improving our school system. Revenue from gaming has allowed our county to provide $1.4 million of additional funding for this school year. New class rooms, much needed equipment, and an increase in teacher pay will be provided with this extra funding. Our Board of Supervisors has recently voted to reduce its tax on property in the county by 32%.

Gaming has had an extremely positive economic impact on our local community. We are experiencing tremendous growing pains, which should be expected. All of us in Tunica County are committed to developing our area into a major destination resort. We envision a major airport, a first class family oriented theme park, shopping malls and championship golf courses.

I extend to all of you an invitation to visit us in Tunica County and experience our Mississippi Hospitality.

Written testimony by Robert Goodman,
Lemelson Professor of Environmental Design,
Hampshire College, Amherst, Massachusetts

Before the House Committee on Small Business,
Congress of the United States, September 21, 1994

Summary of

LEGALIZED GAMBLING AS A STRATEGY FOR ECONOMIC DEVELOPMENT
Final report of the United States Gambling Study
Robert Goodman, Director

Funds provided by the Ford Foundation and the Aspen Institute

A. Primary Purposes

1. To examine the public and private economic consequences of gambling, such as the effects on state budgets and local business.

2. To improve the decision-making process for legislators, business leaders, media representatives and citizens by providing objective information.

B. Study Methods

1. Analysis of the existing research materials and political processes concerning the spread of legalized gambling.

2. Interviews with researchers, government and business leaders involved in this process.

C. Major Conclusions of the Study

1. There is no popularly-based movement for expansion of legalized gambling -- it has been the result of lobbying by the gambling industry and initiatives by government officials.

2. The research being relied upon by public officials and the media is often done by the gambling industry itself. In the fourteen economic impact studies analyzed, claims of economic benefits were usually exaggerated, while costs were understated.

3. Expansion has produced increases in employment and tax revenues, but the shift of consumer spending to gambling significantly cannibalizes existing local businesses. There are also increased public and private expenditures for criminal justice, regulation, problem gambling behavior and public infrastructure.

4. As governments expand and promote more gambling, the number of people who gamble is increasing. Personal income spent on gambling is also rising. Gambling revenues come disproportionately from lower income residents.

5. As state budgets become more gambling dependent, legislators are legalizing more addictive games like video lottery terminals (slot machines). In the future, governments are likely to look towards expansion through home-accessed gambling, like telephone and interactive TV betting.

6. States have shifted from the role of gambling regulator to that of gambling promoter. Regulations designed to protect the public are being undercut and spending on advertising and promotion of gambling is increasing.

7. As growing numbers of people work in the gambling industry, new pro-gambling constituencies are developing to protect these jobs. This will make it increasingly difficult for governments to curtail or terminate these ventures.

8. Tribal relations with the states over gambling have often been adversarial. As tribal revenues expand, state governments are attempting to tap into or curtail them. There are currently significant legal challenges pending to the regulatory framework for Indian gambling.

C. Recommendations

1. Communities need more objective information about economic and social impacts. They should avoid reliance on information by researchers who work for pro-gambling constituencies.

2. There is need for state and national organizations, independent of the public and private gambling industries, to conduct ongoing analysis of the impacts of existing and proposed gambling ventures.

3. Governments should avoid promoting gambling and legalizing more addictive games, such as electronic machines, interactive television and other home-accessed gambling.

4. Governments engaged in gambling ventures should prepare comprehensive gambling plans, which clearly describe their goals and methods of achieving them, as a guide for their future gambling development.

5. Governments should avoid financial dependence on gambling ventures. Public monies and expertise would be better used developing and supporting more economically and socially productive ventures.

6. Tribes, while having the right to make their own decisions about whether or how to engage in gambling operations, should be attentive to using the capital generated by their successful ventures to engage in diversified, long-term economic development activities.

The full text of LEGALIZED GAMBLING AS A STRATEGY FOR ECONOMIC DEVELOPMENT (222 pages) can be obtained from Broadside Books, Northampton, Massachusetts, Tel. (413) 586-4235.

The Future of Gambling, the Future of the Economy

Testimony by Robert Goodman,
Lemelson Professor of Environmental Design,
Hampshire College, Amherst, Massachusetts

Before the House Committee on Small Business,
Congress of the United States, September 21, 1994

Thank you Congressman LaFalce and members of this committee for the opportunity to discuss my recent research findings and recommendations with you. My name is Robert Goodman and I am a Lemelson Professor of Environmental Design at Hampshire College in Amherst Massachusetts. Two and a half years ago, I became the director of the United States Gambling Study, a research project designed to study the economic consequences of legalized gambling in America. This project was conducted at the University of Massachusetts at Amherst, with funds from the Ford Foundation and the Aspen Institute.

Working with a number of economic and legal consultants and graduate students, we interviewed politicians, business leaders, Attorneys General, state lottery directors, gambling industry executives, newspaper reporters, and researchers. We also reviewed a large body of research information about the gambling industry.[1] I have submitted a written summary of this study to the committee as a seperate document.

The results of our research we hoped, would provide

communities with better ways to analyze this issue, to debate it, and then to be able to make more informed choices. While I knew the issue of legalizing gambling was controversial, I never expected that our relatively modest study would cause such a stir.

Since the study was released, early this year, I've been invited to testify before government legislative committees, to speak at Chambers of Commerce meetings, at national conferences of state legislators and Attorneys General and to appear on American and Canadian radio and TV programs. We have received requests for our study from as far away as Mexico, Canada, South Africa and Australia. We have received a great deal of very positive response from business, community and political leaders. Debate in public forums has also involved heated exchanges with politicians and gambling industry executives.

The intensity of some of the attacks against the study by politicians and the gambling industry, at first, surprised me. Complaining letters were written to the University of Massachusetts' president, which questioned my right to do this research at a state university. Unnamed sources called newspaper reporters to describe the Ford Foundation and the Aspen Institute as "moral crusaders" against gambling. In spite of the fact that I openly acknowledged that I occasionally enjoy gambling myself, I have been attacked as an anti-gambling moralist.

But in the process of studying and debating the economic consequences of gambling expansion in America, I've come to understand why gambling industry executives and some politicians are so disturbed by criticism of this industry. For people in the private gambling industry, the answer is staightforward. Government-regulated casino and slot machine operations, with limited licenses for operators, can be immensely profitable. Criticism about their economic and social impacts is seen as threatening to those profits. For some political leaders, criticism can also be threatening, but for more complex reasons. These stem from the limited opportunities available for economic development in many parts of America.

The reason why state and local governments have found themselves in the position of expanding gambling as a form of industrial policy is understandable. Having had to deal with downsizing by major private firms, having had to bear the brunt of reduced federal aid for their budgets, and having seen major increases in social problems like drugs, homelessness, crime, and unemployment - any new enterprise which promises large numbers of jobs and revenues can give the appearance of salvation and economic revival. With constituents hurting and with more productive solutions hard to come by, even desperate solutions can seem better than no solutions.

Just how desperate the plight of workers in many of our

cities has become, and the degree to which their desperation is being exploited by the gambling industry, can be seen in one incident that occurred in Detroit last year. This city, once the world's leading producer of automobiles, is similar to many other older American cities which are hungry for jobs and revenues. During the Fall, a local casino developer announced that he was accepting applications for jobs - even though no casino had actually been legalized. These applications were being sought, according to the developer, in order to have time to train workers in the event that the company's proposed casino project might be legalized. Then mayor-elect Dennis Archer, who was opposed to the casino project, said the job application process was a cruel tactic, one which raised people's hopes in a ploy to create political pressure for legalized casino gambling in Detroit.

On a cold November morning, three hours before the doors opened for applications, hundreds of people began lining up. As the day progressed and more people arrived, nearby streets were closed off to accommodate the huge crowds. By the day's end, it was reported that over ten thousand people, most of them black, had filled out applications for these non-existent jobs.[2]

But using gambling as government policy to create jobs and to supplement public treasuries is a dangerous form of economic development. When legal gambling existed in only a few places in

this country - in Nevada and in Atlantic City, New Jersey, it was possible for those states to have something of an export monopoly economy. Leaving aside some of the local social problems created in this process, from an simple economic perspective, dollars came into the local community, had multiplier effect in creating other local jobs besides those in the casinos, and for the most part the economic costs of the tourists with problem behaviors were exported back to their home communities.

But as gambling proliferates, and local markets become saturated with ever more convenient gambling opportunities, what little discretionary consumer dollars still exist in these markets are being drained from other, already troubled local businesses. Not only are local economies further undermined by this process, but increased numbers of problem gamblers are adding new costs to government and the operation of existing non-gambling businesses. Expanded gambling ventures are creating an onerous financial burden on future generations, while simultaneously undermining what remains of America's productive economy.

It is a strange paradox that while the federal government is trying to develop new partnerships with the country's most productive, job-enhancing and economy-expanding industries - by providing research assistance for high technology firms in semiconductors, in the information superhighway, and in

developing a clean car, for example - state and local governments are moving in just the opposite direction. These governments are developing new partnerships with businesses in some of the most unproductive and destructive sectors of the economy, helping to expand an industry whose success increasingly depends on cannibalizing dollars from other businesses and whose expansion will create serious future problems for other businesses and governments to deal with.

State and local governments have in effect created a regressive industrial policy with the gambling industry. To continue in this direction would contradict the extensive efforts by the federal government at targeting government help for those businesses which can take the lead in enhancing the nation's competitiveness in the face of increasing global competition.

At the federal level, enormous time and resources have gone into debating and developing such policies as international trade agreements and patent protection to help expand American business, and to protect against predatory foreign trade policies. Yet the federal government has done little to protect American businesses against a predatory industry at home - those state and local government partnerships with the gambling industry, whose monopolistic powers will have a devastating effect on large portions of the existing economy.

In the process of turning to this kind of quick relief, state and local governments are in the process of creating an economic legacy which will make current federal efforts at long term solutions for the growth of the American economy even harder to realize. As expanded gambling continues to drain money from the productive sectors of the American economy, private savings, and, consequently, potential investment capital, is being reduced; existing businesses which lose consumer revenues are being pushed closer to decline and failure; workers from these declining businesses will be laid off and people with addictive gambling problems will increase - as will the enormous public and private cost of dealing with these addictive behavioral problems.

Using our research findings, we have conservatively estimated that each problem gambler costs government and the private economy $13,200 a year. As an example, simply increasing the incidence of problem gambling in a small state like Iowa by only one-half of 1% of the adult population would cost private business and government at least $73 million per year. This same slight increase in problem gambling in a much more populated state like California would result in yearly costs of about $780 million dollars.

These involve such costs for the private economy as money which problem gamblers borrow but don't pay back, work time lost

to private industry by problem gamblers who are ineffective on the job, salaries lost by problem gamblers who are laid off as a result of their problem; private insurance losses as a result of fraud by problem gamblers, and losses as a result of embezzlement and check fraud by problem gamblers. In addition, there are the public costs of processing problem gamblers who engage in criminal behavior through the criminal justice system - including the costs of keeping those people who engage in more severe crimes in prison.

With aggressive marketing and promotions, government-gambling partnerships clearly still has some distance to go before saturating the American gambling market. While there have already been many casino declines and bankruptcies and large-scale lay-offs of casino workers in states like Colorado, South Dakota, and Mississippi, the gambling industry has shown a willingness to spend enormous sums to promote and expand existing and new forms of gambling throughout the country. In recent years, lobbying campaigns by the gambling industry in states like Connecticut and Missouri have resulted in the largest amounts ever spent on a single campaign in the state's history. Very few of the small local businesses which will be negatively impacted by the new ventures have anywhere near the financial resources of the gambling industry for their lobbying efforts.

In what is a bizzare form of economic development policy,

small business organizations sometimes find themselves forced into taking positions in favor of expanded gambling even when their members are against this policy. Certain businesses, like restaurants, fear that government proposals for casino-style gambling will siphon consumer dollars and time away from their establishments. Rather than stand idly by and watch this happen, they lobby for the right to operate slot machines on their premises in order to defend themselves.

The head of a state restaurant trade association explained to me that his membership was initially against the expansion of casino-style gambling in the state, having observed that few independent restaurants in existing casino dominated areas have survived against the competition of slot machines and restaurants inside the casinos. The organization's membership would prefer that people spend their time eating at their restaurants rather than playing at slot machines. But if the state was going to legalize casino-style gambling anyway, they would rather see the slot machines in their restaurants.

Most states have shown little restraint in spending money to recruit more people to gamble. States with lotteries are spending over $300 million a year to advertise their products. By comparison, states with industrial extension programs spend only $50 million throughout the United States to provide technical advice to mostly small and medium-sized firms. A 1991 report by

Congress' Office of Technology Assessment criticized the lack of national and state government support for commercializing new technologies for America's 350,000 small and medium-sized manufacturing firms, contrasting the American experience with the extensive help being given business by national and local governments in Japan.[3]

While state governments in America expand promotion of their gambling ventures in order to entice more players, the operators of some state industrial extension programs are are actually reluctant to promote their services, since they lack the necessary funds to handle additional clients. Georgia Tech, for example, which operates one of the most successful of these government-sponsored industrial extension services, does not advertise, fearing it will be overwhelmed by requests for help if it did.[4]

The solution to the economic and social problems being created by expanding gambling in the United States cannot be solved with solutions within this industry alone. While some reforms can be addressed here, long-term solutions must deal with the reasons why state and local governments have turned to gambling as industrial policy solutions in the first place. What is needed, I believe, are the following approaches:

1) a more extensive and objective assessment of the impact of expanded gambling on the American economy. This should include an ongoing, objective assessment of the economic and social cost impacts of problem gambling on private and public economies in the United States. What are the real costs and benefits? We found that most research that government leaders rely on was done by the gambling industry itself or researchers who worked for the gambling industry.

2) an assessment of the impacts and implications of state and local gambling economic development policies on federal government and private sector efforts to improve the national economy. How, for example, are national efforts at improving America's global competitiveness being impacted by state and local government gambling industrial policies?

3) the creation of a plan for coordinated and cooperative efforts among federal, state, local, and tribal governments in expanding the economy. This would include a coordinated effort at national gambling policy and an end to state gambling expansion being used simply to protect local discretionary dollars from crossing borders.

4) the development of what I call winner-winner gambling opportunities for the public as opposed to currently existing state-sponsored gambling based on winner-loser models. These

would be opportunities which recognize people's desire to risk their money in the hope of gaining more money, but would move in the direction of combining an investment approach with gambling, rather than an all or nothing wagering approach.

One such alternative, which I am currently researching and developing, I call "the investment lottery." This is based on an over 300 year-old idea for lotteries developed in England. In these games players bought tickets, but those who didn't win prizes were paid back their original purchase price plus interest over a period of time.

I hope our work has been helpful to the committee, and again, I thank you for the opportunity to testify. I will be happy to answer any questions you may have.

Endnotes

1.See Goodman, Robert, Legalized Gambling as a Strategy for Economic Development, (March, 1994), United States Gambling Study, Northampton, MA.

2. Bennet, James, "Mere hint of jobs draws crowd in Detroit," New York Times (Nov. 12, 1993), p. 1.

3. Office of Technology Assessment, Competing Economies: America, Europe and the Pacific Rim, Congress of the United States, Office of Technology Assessment, Washington, D.C., (October 1991), p. 16.

4. Office of Technology Assessment, op. cit., p. 16.

TIME FOR A NATIONAL POLICY

The United States faces a problem, the size of which is only now beginning to be understood. The cause for alarm derives from the enormous costs and consequential social changes that are foreseen to accompany the spread of casino gambling to all parts of the country. Gambling is now expanding so fast that it is outrunning any coordinated or prudent national policy.

Tremendous excess profits are available to the early promoters of gambling in new regions. The gambling industry's demonstrated willingness to use big money to influence state and local legislators and apply pressures pitting region against region, cause different jurisdictions to vie with one another in destructive contests to advance their local economies. Gambling promoters have argued both that gambling will attract revenues from neighboring areas, while at the same time claiming that new forms of gambling are needed to keep revenues at home as a defensive countermeasure against other areas' gambling ventures. Such "Beggar-Thy-Neighbor" competition produces a classic race to the bottom. The bottom is reached when every market is saturated with gambling. Since every region cannot gain at the others' expense, the promised benefits will not materialize. However, each region will be left paying the costs of gambling addiction and experience lower regional income. They will also have to contend with the effects of wealth concentrated in the gambling industry.

Because of its interregional aspects, gambling regulation is no longer a purely local question. The magnitude of the problem suggests that foresightful national policy should be developed to counteract the false short term incentives for states to individually introduce gambling to their common long term harm.

An Additional Recession Every Decade

The gambling industry describes itself as another form of entertainment among the many that are available. The industry's preference for the word "gaming" instead of "gambling" reflects this view. However, economists have historically opposed gambling because it differs from other entertainment in at least two respects: It reduces national income and it creates social costs that must be paid by those who do not gamble. Paul Samuelson, Nobel Prizewinning economist, summarized the first of these points as follows.

> There is, however, a substantial economic case to be made against gambling. First, it involves simply sterile transfers of money or goods between individuals, creating no new money or goods. Although it creates no output, gambling does nevertheless absorb time and resources. When pursued beyond the limits of recreation, where the main

purpose after all is to "kill" time, gambling subtracts from the national income.[1]

The second way in which gambling differs from other entertainment is that it imposes costs on the private sector, including those who do not gamble.[2] The direct costs of gambling derive primarily from the small percentage of pathological gamblers present in the adult population. A similar situation exists, for example, with respect to a short list of activities such as alcohol, drugs, prostitution, or crime: It is a tiny percentage of the population that creates the social costs that must be borne by the many, even those who do not engage in the abused activity.

How big are the costs? Conservative estimates place the percentage of pathological gamblers at 1.5 percent of the adult population.[3] The rate may be as high as 6 or 7 percent. The reported figure for studies of teenagers is double that of adults. Surveys show that more than 3 out of 5 compulsive gamblers engage in criminal activity to support their gambling. One-fourth are charged with criminal offenses. Ten percent are convicted and incarcerated or given a combination of incarceration and probation. Another ten percent are given probation. Compulsive gamblers also often lose control of their lives. Associated job problems lead to lost production, nonpayment of taxes, and so on. Adding together the direct crime costs (average annual law enforcement, adjudication, and detention costs for the typical type of 'white collar' crime committed by pathological gamblers)[4], incarceration costs (average confinement costs for a typical crime committed by pathological gamblers)[5], and direct regulatory costs (cost of operating state regulatory agencies to oversee gambling) leads to current-dollar costs per compulsive gambler that range between $14,000 and $30,000 annually. This translates into costs over the entire

[1] Paul A. Samuelson, *Economics*, New York: McGraw-Hill, 1970, p.402.

[2] My estimates suggest that were the entire nation to introduce gambling the costs equal would equal 1/2 percent of GDP annually.

[3] See *Final Report: Task Force on Gambling Addiction in Maryland*, The Maryland Department of Health and Mental Hygiene, Alcohol and Drug Abuse Administration, Baltimore, MD, 1990, p. 55. Also Politzer, R. M., Morrow, J.S., and Leavy, S., "Report on the Societal Cost of Pathological Gambling and the Cost-Benefit Effectiveness of Treatment," The Gambling Papers: Proceedings of the 1981 Conference on Gambling, University of Reno, Nevada, 1981, p. 9, 10. Subsequent studies confirm earlier figures. Some find even higher rates.

[4] Politzer, R. M., Morrow, J.S., and Leavy, S., "Report on the Societal Cost of Pathological Gambling and the Cost-Benefit Effectiveness of Treatment," *The Gambling Papers: Proceedings of the 1981 Conference on Gambling*, University of Reno, Nevada, 1981, p. 8. Politzer et. al. 's source: Kole, B. Personal Communication, Baltimore city State's Attorney's Office.

[5] Politzer, Op, cit., p. 9. Politzer et al. 's source: *Governor's Commission on Law Enforcement and Administration of Justice, Description of Maryland Criminal Justice System costs and Resources-FY 1977*, State of Maryland, April 1977, 12-749, Staff Report, Statistical Series III.

population of $115 to $300 per adult annually, or $21-$37 billion at the national level. For comparison, in the recession of 1990-91, lost GDP was $306 billion. Gambling therefore is equivalent to suffering an additional recession in the country every 8 to 15 years. Hurricane Andrew was the most costly natural disaster in the history of the United States. It cost slightly more than $30 billion in damages. Gambling would be like suffering an additional Hurricane Andrew every year--forever. Other forms of entertainment--the symphony, major league sports, restaurants--do not cause such massive social costs.

Social Restructuring

Gambling can also imply a major restructuring of the business sector, particularly the entertainment and leisure components. Most businesses earn profit between 5 and 8 percent of revenues. The gambling industry, in contrast, frequently earns gross profits of 30 to 50 percent or more. In Illinois, one prominent casino nearly tripled the original multimillion dollar investment of its owners in the first six months. This money comes at the expense of other sectors, primarily those that compete most directly with the gambling industry such as restaurants and local recreation. Income that is currently earned by many small businesses would be centralized in a few hands in the gambling industry. In state after state large amounts of gambling money have been used to influence government and its plans. In Missouri the gambling industry waged a $2.8 million campaign--just for the right to have slot machines. Though voters rejected the gambling initiative, promoters have placed the same issue on the ballot in less than six months. In Illinois more than $650,000 in campaign contributions came from riverboat casinos over a 12-month period. The largest contribution from casinos, not surprisingly, went to Illinois House Speaker Michael Madigan (D), who has become a backer of gambling expansion in the state. In the following year the largest contributions are reported to have gone to Senator Pate Phillips (R) who heads the Senate. The same story is now being played out in other states including Louisiana, Alabama, Mississippi, Virginia, Florida and others. In Illinois, the proposal to introduce casino gambling in Chicago has been defeated three times, but is coming back for yet another try. Why? Those who follow the issue closely suspect that gambling money is behind the constant pressure to alter previous decisions.

How much money could be absorbed by the gambling industry? Gambling has just begun its expansion in earnest, but already its sales equals roughly 2.5 percent of GDP.[6] How much of an increase to expect or how much money from the "lesser" forms of gambling would flow to harder forms of gambling if casino gambling is franchised throughout the nation is hard to predict. The potential is enormous, however. Seeing 1/2 percent or more of GDP--this is more than the *total sales* of books, movies, recorded music, and attractions such as amusement and theme parks combined--accrue as gross

[6] Computed from LaFleur's 1993 *Gambling Abstract,* cited in *Wagering in Ilinois: A Report Updating the Economic Impact of Gambling Activities,* Illinois Economic and Fiscal Commission, January 1994, p. 5.

profits to a single industry with as much potential for social costs as gambling has would have significant consequences.

Jobs and Economic Growth

Concerned with its trade balance, just before the Great Depression the United States passed the Smoot-Hawley Tariff raising tariffs to historic levels of 58-60 percent on average, in a misguided effort to increase the inflow of trade dollars from other countries relative to the outflow. States' introduction of casino gambling today to draw revenues from citizens of other states bears many similarities. In the case of Smoot-Hawley, the attempt backfired as over 60 foreign nations responded with major tariff increases of their own within two years. This misanthropic competition shriveled trade for everyone. Today it is generally agreed that such self-centered Beggar-Thy-Neighbor politics contributed to the Great Depression.

The gambling industry admits that there are social costs (described above as equivalent to suffering an additional recession every decade) but argues that gambling brings economic development and tax revenues by drawing money from other regions. This is a Beggar-Thy-Neighbor activity. Whether gambling causes jobs to be gained or lost in an area depends on whether gambling attracts more dollars to the region than it takes out. Las Vegas gains from gambling because it draws dollars from California . Atlantic City gains because it draws dollars from Philadelphia. If there were no gambling, economic activity in California would be greater, and economic activity in Las Vegas would be less. If Philadelphia introduced large-scale gambling to defend against Atlantic City, as the gambling industry has been urging it to do, Atlantic City will lose part of what it is now taking from Philadelphia.

Apart from government control, gambling is a free entry activity. It requires little knowledge or high technology to offer gambling. This means that it is physically and economically possible to introduce gambling anywhere. Gambling could be franchised on every street corner in the nation like McDonald's Hamburger stands. When each locality has gambling of its own, few areas will gain at the expense of others, but every region will have to pay the economic costs.

In Illinois, riverboat gambling has had virtually no effect on reducing the pool of unemployed or increasing the number of jobs in the communities where it has been introduced. In a few cases where a measurably significant effect can be found, the increase in jobs in the region appears to be less than 50 percent of the number of people employed on the riverboats. In other words, riverboat employment was due almost entirely to a shift into gambling of jobs that were lost elsewhere. In some cases a partial employment increase occurred but with no reduction in the number of unemployed in the area. This is

consistent with the explanation that people from outside the area came in to take some of the gambling jobs but that insufficient numbers of outsiders gambled at the boats relative to locals to affect overall employment.

The progression of gambling to greater number of forms offered is a predictable process. Starting from a no-gambling position, the typical pattern is to introduce a state lottery. This may be accompanied by allowing additional limited forms of gambling such off-track betting parlors or racetracks. The next stage often involves proposals for psychologically acceptable types of gambling such as riverboat casinos. This is followed by land-based casinos. Next, the cities that did not get licensed seek casinos to compete with the first licensees. Next restaurants and bars note that casinos can offer food and liquor, but they are prohibited from offering gambling. They then ask to be allowed to compete on equal terms by offering gambling on their premises. This point, for example, has already been reached in Minnesota where bars and small businesses with a liquor license have already asked the legislature to allow them to install video gambling machines. After bars, restaurants and the like turn to slot machines and video gambling machines, even grocery stores and retail stores may eventually feel the need to offer gambling. At this point, the gambling culture is fully sanctioned and government nurtured. Citizens--even those who did not gamble before--find the travel and time costs for gambling so reduced that they respond to the pressure to gamble. Gambling expands manyfold. No region gains at the expense of others, but the permanent social costs described above begin to weigh in. These costs are shared by gamblers and non-gamblers.

History

In 1920 all forms of gambling were illegal in the United States. Today, governments sell lottery tickets and encourage casinos, video poker machines, and other electronic forms of gambling. The change from one extreme to the other has been incremental. Perhaps this is an example of the boiled frog syndrome--taken in small enough doses anything is tolerated, even if the end result is fatal.

Unfortunately, we appear not to be learning from our history, "Twice before in American history players could make legal bets in almost every state, but these waves of legal gambling came crashing down in scandal and ruin,"[7] according to gambling historians. The first American wave of gambling had its roots in the colonial period, which used lotteries to fund public projects. New York set up the first race track as early as 1666. By the 1820s the same movement that sought to clean up frontier lawlessness,

[7] Nelson Rose, "The Rise and Fall of the Third Wave: Gambling Will be Outlawed in Forty Years," *Gambling and Public Policy: International Perspectives, William Eadington and Juday Cornelius*, eds., Institute for the Study of Gambling and Commercial Gaming, Reno, Nevada, 1991.

alcohol, and slavery also attacked gambling. Starting in states like Massachusetts and New York, reformers eventually outlawed lotteries in all but two states by 1862. The second wave of gambling began after the Civil War with the expansion of the western frontier. Casinos were licensed in San Francisco; South Dakota had gambling in Deadwood; and lotteries re-appeared in many states. Scandals and increased public experience with the harmful effects again caused the public to sweep out gambling. By 1894 no state permitted the operation of lotteries. In fact, 35 states had constitutional prohibitions against them. From 1894 to 1965 no legal lotteries operated anywhere in the United States. As stated above, in 1920 all forms of gambling were illegal. The Depression of the 1930s led Nevada to re-introduce casino gambling and a number of states such as Kentucky and New York introduced racetracks. The third wave of gambling began in earnest as in earlier periods with the spread of lotteries in the 1970s and 80s, followed by other forms of gambling. If the past is a guide, gambling and its harmful effects will continue to grow unless the cycle is cut short by foresightful policy choices at the national level.

Summary

If the nation faced a problem equivalent in costs to an additional recession every decade, it would be large enough to warrant federal action. Gambling is that problem. A commission or task force is needed to recommend a coherent national policy to restrict or prohibit gambling based on objective numbers and research. The recommended actions should then be taken up by Congress and the President.

Statement of John Warren Kindt*

From a business-economic perspective, the main issue involved in legalizing various forms of gambling is whether gambling activities constitute a valid strategy for economic development. While the dollars invested in various legalized gambling projects and the initial jobs created are evident, the industry has been criticized for inflating the positive economic impacts and trivializing or ignoring the negative impacts.[1] The industry's tendency to focus on specialized factors provides a distorted view of the localized economic positives, while ignoring the strategic business-economic costs to different regions of the United States.[2]

Since some issue areas have not received widespread public attention, this analysis highlights some of the neglected issue areas as they relate to tax revenues, social-welfare costs, education, and job creation. From the perspective of U.S. economic history, the United States has had previous economic cycles with widespread legalized gambling activities. The most relevant cycle occurred after the American Civil War and paralleled the post-bellum migration to the "Wild West." Although gambling proliferated during this time-frame, within a few years the trend toward prohibiting gambling activities had begun, and by 1910 there was virtually no legal gambling in the United States. Gambling activities were not just prohibited via state statutes and local ordinances, but a fortiori, these prohibitions were incorporated into most state constitutions. The fact that state constitutional provisions were utilized to make it as difficult as possible for future generations to legalize gambling activities (and thereby experiment once again with a classic "boom and bust" economic cycle) lends substantial credence to arguments that both historically and currently, the legalization of gambling activities eventually causes: (1) increased taxes, (2) a loss of jobs from the overall region, (3) economic disruption of other businesses, and (4) large social-welfare costs for society in general and government agencies in particular.

In recent economic history, legalized gambling activities have been directly and indirectly subsidized by the taxpayers. The field research throughout the nation indicates that for every dollar the legalized gambling interests indicate is being contributed in taxes, it usually costs the taxpayers at least 3 dollars--and higher numbers have

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[1]See generally, R. GOODMAN, LEGALIZED GAMBLING AS A STRATEGY FOR ECONOMIC DEVELOPMENT (Ctr. Econ. Development, U. Mass.-Amherst 1994).

[2]See, e.g., CAL. GOVERNOR'S OFF. PLAN. & RESEARCH, CALIFORNIA AND NEVADA: SUBSIDY, MONOPOLY, AND COMPETITIVE EFFECTS OF LEGALIZED GAMBLING ES-1 (Dec. 1992).

been calculated.[3] These costs to taxpayers are reflected in: (1) infrastructure costs, (2) relatively high regulatory costs, (3) expenses to the criminal justice system, and (4) large social-welfare costs.[4] Accordingly, several state legislators (e.g., South Dakota) have called for at least partially internalizing these external costs by taxing all legalized gambling activities at a straight 50 percent tax rate. Furthermore, as a matter of good public policy, state officials and legislators in Illinois have proposed legislation to prohibit contributions by legalized gambling interests to politicians and political campaigns.

In the context of social-welfare issues, it is well-established that legalized gambling activities act as a regressive tax on the poor.[5] Specifically, the legalization of various forms of gambling activities makes "poor people poorer" and can dramatically intensify many pre-existing social-welfare problems. Demographic analyses reveal that certain disadvantaged socio-economic groups tend to gamble proportionately greater amounts of their overall income[6] and marketing efforts, particularly by state lotteries, have allegedly been directed at these target groups.

From the business perspective, businesses are not naive.[7] With the exception of the cluster services associated with gambling, new businesses tend not to locate in areas allowing legalized gambling because of one or more of the aforementioned costs. In areas saturated with legalized gambling activities, pre-existing businesses face added pressures that push them toward illiquidity and even bankruptcy. Although South Dakota does not constitute a saturated gambling state, this trend has already been reported. South Dakota had virtually no gambling in 1988 and then instituted casino gambling and video lottery terminals by the end of 1989. Within two years legalized gambling activities constituted one of the leading causes of business and

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[3]For example, just the social-welfare costs mentioned at footnotes 10, 12 infra usually dwarf the projected new tax revenues from the legalized gambling activities.

[4]See, e.g., Press Release, Off. Ill. Gov. James Edgar, "Governor Warns Land-Based Casinos Could Bring Crime Surge As Well As Overall Loss Of Jobs And State Revenues," Sept. 29, 1992 (summarizing several Illinois State reports).

[5]See, e.g., C. CLOTFELTER & P. COOK, SELLING HOPE 215, 222-27 (Nat'l Bur. Econ. Research, Harv. U. Press 1989).

[6]Id. at 99.

[7]For example, "[i]n a rare public stand on a controversial political issue, the Greater Washington Board of Trade's 85-member board voted unanimously against" Mayor Sharon Pratt Kelly's initiative to bring casino-style gambling to Washington, D.C. Spayd & Woodlee, Trade Board Rejects D.C. Casino Plan, Washington Post, Sept. 25, 1993, §A, at 1, 8 (emphasis added).

personal bankruptcies among South Dakota residents (whereas this cause was non-existent in 1989).[8] More subtly, traditional businesses in communities which initiate legalized gambling activities can anticipate increased personnel costs due to increased job absenteeism and declining productivity. The best blue-collar and white-collar workers, the Type-A personalities, are the most likely to become pathological gamblers. A business with 1,000 workers can anticipate increased personnel costs of $500,000 or more per year--simply by having various forms of legalized gambling activities accessible to its workers.[9]

To some extent businesses must already internalize the societal costs associated with assisting personnel with drug or alcohol-related problems. Legalizing various gambling activities increases the number of problems related to pathological gambling in the context of the workforce, and these costs are reflected in increased personnel costs--such as "rehabilitation costs," which can easily range from $3,000 to $20,000 (or more) per pathological gambler.[10] In the context of the current healthcare debate, the spectre of these unanticipated costs can raise further concerns to businesses already being asked to bear certain healthcare costs.

Gambling activities and the gambling philosophy are directly opposed to sound business principles and economic development. Legalized gambling activities also negatively affect education--both philosophically and fiscally.[11] In states with legalized gambling activities which were initiated allegedly to bolster tax revenues to "education," the funding in "real dollars" has almost uniformly decreased.

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[8]See, e.g., Nelson, S.D. bankruptcies down 5 percent; Judge: Gambling caused most cases, Argus Leader (Sioux Falls, S.D.), Jan. 15, 1993, at 1.

[9]The large social-welfare costs caused by legalizing gambling activities are necessarily reflected to some extent in the workforce. See footnotes 10, 12 infra and accompanying text. For example, lost work productivity alone has been calculated at $23,000 per year per pathological gambler. See, e.g., BETTER GOV'T ASSOC., STAFF WHITE PAPER: CASINO GAMBLING IN CHICAGO 14-15 (1992) (a comprehensive report). The costs of a "bottomed-out" pathological gambler are significantly higher. Id. at 14 ($27,000 per pathological gambler). See also ALCOHOL & DRUG ABUSE ADMIN., MD. DEP'T HEALTH & MENTAL HYGIENE, TASK FORCE ON GAMBLING ADDICTION IN MARYLAND 2, 59-61 (approximately $15,000 per year per compulsive gambler in lost productivity).

[10]See, e.g., GAMBLING ADDICTION IN MARYLAND, supra note 9, at 29-30, 36-63 (1990); CASINO GAMBLING IN CHICAGO, supra note 9, at 12.

[11]See, e.g., CLOTFELTER & COOK, supra note 5, at 151-53; CASINO GAMBLING IN CHICAGO, supra note 9, app. Q.

Those states which embrace legalized gambling activities can expect enormous socio-economic costs and declines in the quality of life. Unlike traditional business activities, legalized gambling activities cater to a market consisting of addicted and potentially-addicted consumers, and most pre-existing traditional businesses will find it quite difficult to compete for "consumer dollars" which are being transformed into "gambling dollars."

For example, the field research strongly suggests that the introduction of widespread legalized gambling in South Dakota, including casinos and video lottery terminals (VLTs), over a two-year time span caused a one percent increase in the number of problem and probable pathological gamblers--a recognized addiction pursuant to the American Psychiatric Association. Each newly-created pathological gambler has been calculated to cost society between $13,200 to $52,000 per year.[12] These costs are not just reflected in society as a whole, but impact on all businesses. In particular, small businesses could easily experience disproportionate negative impacts, and unlike large corporations, small businesses would be less likely to have the asset base necessary to cushion against those negative impacts.

Sociologists almost uniformly report that increased gambling activities which are promoted as sociologically "acceptable" (the acceptability factor) and which are made "accessible" (the accessibility factor) to larger numbers of people will increase the numbers of pathological gamblers. The baseline of pathological gamblers as part of the population begins at .77 percent as reported by the 1976 U.S. Commission on Gambling.[13] Since gambling has been legalized and made accessible in several states, the range has increased to 1.5 to 5 percent[14] in those states. This translates into increases in socio-

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[12]See, e.g., STRATEGY FOR ECONOMIC DEVELOPMENT, supra note 1, at 61-63; Politzer, Morrow, & Leavey, Report on the Societal Cost of Pathological Gambling and the Cost-Benefit/Effectiveness of Treatment 8-10, 18-20, 23-25, 29-30 (5th Nat'l Conf. on Gambling and Risk Taking 1981); CASINO GAMBLING IN CHICAGO, supra note 9, at 14. See also GAMBLING ADDICTION IN MARYLAND, supra note 9, at 2, 59-61.

The more recent estimates are tending to cluster in the range of $13,200 to $35,000 (without adjusting for inflation). Even the lowest estimates reflect large social-welfare costs, which should be compared with any projected new tax revenues from legalizing various forms of gambling activities. In most instances an increase of one cent or less in the sales tax would raise more tax revenues than the total of a state's projected revenues from legalized gambling activities.

[13]U.S. COMMISSION ON THE REV. OF THE NAT'L POL'Y TOWARD GAMBLING, GAMBLING IN AMERICA 73 (Gov't Printing Off. 1976) (another 2.33 percent equal "potential" pathological gamblers).

[14]See, e.g., ALTA. LOTTERIES & GAMING, GAMBLING AND PROBLEM GAMBLING IN ALBERTA 18 (Jan. 1994) (summarizing 20 studies showing the range of problem and probable pathological gamblers at 1.7 to 6.9 for adults and 3.6 to 12.4 for adolescents).

economic costs which must be addressed and absorbed primarily by taxpayers, but also by businesses, charities, social-welfare organizations and governmental units.

On a regional level, the combined ranges of these various socio-economic costs are so large[15] that they tend to dwarf the localized economic positives. These drains on society could easily translate into a net loss of jobs on a statewide or regional level.[16] Furthermore, it can be argued that the combined economic positives and negatives result in a net negative economic multiplier.[17] From the perspective of business-economics and strategic development, major businesses are and should be concerned with the trend toward expanding various forms of legalized gambling activities. Among other reasons, nongambling-related businesses will not be competing for consumer dollars or recreational dollars on a "level playing field," because legalized gambling activities can cater to an addicted and potentially-addicted market segment.

Since the U.S. economy and most state economies are extensive in scope, the socio-economic negatives associated with legalized gambling activities can remain hidden for long periods of time. However, just because a particular activity is "legalized" by a state government does not mean that the negative business or societal impacts have been eliminated--or even reduced.

Increasingly, taxpayers and businesses are beginning to realize that, as Professor Jack Van Der Slik has summarized for much of the academic community, state-sponsored gambling "produces no product, no new wealth, and so it makes no genuine contribution to economic development."[18] Business-economic history supports this proposition. To paraphrase Georg Hegel's common quote, "those who forget the lessons of economic history are condemned to relive them."[19]

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[15] See, e.g., SUBSIDY, MONOPOLY, AND COMPETITIVE EFFECTS OF LEGALIZED GAMBLING, supra note 2, at ES-1.

[16] Id.

[17] See, e.g., STRATEGY FOR ECONOMIC DEVELOPMENT, supra note 1, at 50.

[18] Van Der Slik, Legalized gambling: predatory policy, ILL. ISSUES, Mar. 1990, at 30.

[19] J. BARTLETT, FAMILIAR QUOTATIONS 507 (14th ed. 1968).

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Statement of

VALERIE C. LORENZ, PH.D.
before the

U. S. HOUSE OF REPRESENTATIVES
Committee on Small Business

September 21, 1994

Mr. Chairman and Distinguished Members of the Committee:

My name is Valerie Lorenz. I have specialized in the field of compulsive gambling for over twenty years. I am Executive Director of the Compulsive Gambling Center, Inc. (formerly National Center for Pathological Gambling, Inc.), a not-for-profit organization providing treatment, education, training, research, and program implementation in the field of compulsive gambling. The Center also operated the oldest national 24-hour Compulsive Gambling Hotline for seven years (discontinued in July 1994 for lack of funding). I served as Co-Chair of the 2-year Task Force on Gambling Addiction in Maryland, and have been Director of the Forensic Center for Compulsive Gambling, specializing in expert witness in testimony and forensic reports for over ten years. I have been a member of the editorial board of *The Journal of Gambling Studies* since 1985, and I have published extensively on the problems of compulsive gambling. I have testified numerous times in this area before state and federal legislative bodies, including the White House Conference on Families.

I am pleased to appear before this Committee today to answer your questions about the impact of casino proliferation. I applaud your asking such questions, and encourage this committee to expand this exploration into all types of legalized gambling. And I encourage this Committee to be the leader in establishing national policy on gambling.

Let me make something very clear: ALL types of gambling can become addictive, regardless whether one gambles on or with machines, races, tickets or games. Fortunately, only certain people will become gambling addicts. However, the number of compulsive gamblers has been increasing at an alarming rate in the past twenty years - ever since the spread of casinos and state lotteries, which has turned this country into a nation of gamblers. These gamblers spent $394 billion last year on gambling - money that was not spent in local shopping centers, pizza parlors or corner gorceries, monies that in seven years could pay off our national debt.

Until the mid-1970s, the typical compulsive gambler was a white, middle-aged, middle-class male. A dozen years ago, a female compulsive gambler was a rarity. Lottery addicts were just beginning to surface. Teenage compulsive gamblers and senior citizens addicted to gambling were nonexistent.

The profile of today's compulsive gambler is truly democratic, all ages, races, religious persuasions, socio-economic levels and education. Sixteen or sixty, the desperation and devastation is the same.

The New Jersey Casino Control Commission regularly reports 25,000 or more teenagers being stopped at the door or ejected from the floors of Atlantic City casinos. One can only guess at how many teenagers do get in, gamble, and are served drinks. Today, research indicates that as many as 7% of teenagers may be addicted to gambling.

Adult gambling addiction has increased from .77% of the acult population (U.S. Commission on the Review of the National Policy Toward Gambling, 1975) to as much as 11% in some states in 1993. Why? Because our governments are saying, "Gambling is OK" and because gambling is now so readily available, with so very little regulation.

The formula is quite simple: Availability leads to more gamblers which leads to more compulsive gamblers. Casino gambling, now in 21 states, is particularly onerous because of the allure of escaping into fantasy, the fast action, and emphasis on quick money, all of which are basic factors in gambling addiction.

Gambling addiction increases socio-economic costs far greater than any amount of revenue generated for the government by the gambling industry. For instance, in 1990, the Maryland Task Force on Gambling Addiction found that Maryland's 50,000 compulsive gamblers cost the state $1.5 billion per year in lost work productivity and monies that are abused (stolen, embezzled, state taxes not paid, etc.).

The total cumulative indebtedness of Maryland's compulsive gamblers is $4 billion. That means a lot of small and large businesses are not getting paid, which means they will have to reduce their work force or close up shop.

Other costs resulting from compulsive gambling are broken homes, physical and mental health problems, increase in social and welfare services, indebtedness, bankrutcies, and crime. Each and every one of these are far-reaching, affecting neighbors, employers, entire communities, and generations to come. These direct and indirect costs are staggering.

Taking just the issue of crime alone, virtually all compulsive gamblers, sooner or later, resort to illegal activities to support their gambling addiction. After all, money is the substance of their addiction, and when legal access to money is no longer available, these addicts will commit crimes. The crimes are typically of a non-violent, financial nature, such as fraud or embezzlement or failure to pay taxes. About 25% of them are charged with criminal violations, and about 15% face incarceration. It costs about $20,000 per year for the U.S. Bureau of Prisons to keep one young, healthy compulsive gambler in jail. This cost can escalate to $50,000 for the ailing senior citizen. Then there are the costs for half-way houses, electronic monitoring, and supervised parole and probation.

While in jail, the gambling addict is neither gainfully employed nor paying federal or state taxes. The family may be surviving on drastically reduced income or be on welfare. Well-paying jobs for felons are hard to come by, which means the gambling addict will most likely be earning less in future years, after he or she is released from prison.

Further, compulsive gamblers tend to have a very high rate of civil violations, such as motor vehicle infractions. Probably as much as 90% of casino addicts resort to reckless driving, speeding, and falling asleep at the wheel, resulting in accidents, either to or from the casino. They are a menace on the highway, worse than drunk drivers. Yet what is being done about that, other than to raise the costs of law enforcement and medical care?

About two thirds of compulsive gamblers come from homes with an alcoholic parent. Some compulsive gamblers are alcoholics first, maintain sobriety but turn to another addiction, gambling. Other compulsive gamblers may be co-addicted to either alcohol, drugs, or both. Ironically,

while there are many education, prevention and treatment programs for the substance abuser, supported by state and federal monies, what is there for the individual who becomes addicted to a government licensed or sponsored activity, gambling? Pathetically little in a few states, nothing in most.

In 1988, Congress passed the Indian Reservation Gambling Act. Some 80% of incarcerated Native Americans have an alcohol problem. Yet what is being done to prevent gambling cross-addiction or co-addiction among them? And by whom? The casinos historically have failed to take any measure of responsibility for compulsive gambling, and only recently have a few Indian Reservations addressed this potential problem among their own people or among their customers. In short, the greed of the gambling industry is matched only by its lack of concern for its customers or the community in which it operates. That is not good business.

Maryland first recognized compulsive gambling to be a serious socioeconomic problem in its state in 1978, and funded the first public treatment program. (The first in the nation was established in 1971 at the Brecksville, Ohio VA Medical Center.) Today, the state does not allocate a single dollar to combat compulsive gambling. Why not? Because every legislative bill introduced to aid compulsive gamblers was fought by the gambling industry - the state lottery, the charitable casinos, the race track, tavern associations, fraternal clubs with video poker machines, and bingo parlors.

What is the end result of widespread casino gambling? Just look at the housing and poverty in Atlantic City, the lack of quality of life in Deadwood, South Dakota, or the alcoholism and crime rate in Las Vegas.

What must this government do to contain this national health problem, one that has been labelled The Addiction of the Nineties?

First of all, it must face the fact that the problem exists, instead of continuing to ignore it or minimize it. Secondly, it must stop believing the deceptions perpetrated by the gambling industry, that legalization of casinos or race tracks or lotteries are the answer to governments' fiscal woes, the anwer to unemployment, or the way to stop tax increases.

This government needs to establish an office to look at the negative consequences of widespread gambling, and it needs to establish comprehensive policy: how much gambling, where, what hours, who will run the game, why, how much money is needed for law enforcement and crime prevention, what is the uniform minimum age, what research is needed, who will educate the public, business and industry, or train health providers, who will fund prevention and treatment programs?

State legislatures across the country are seeking to implement new forms of gambling. One riverboat quickly becomes thirty riverboats in one area. Yet there are less than a dozen professional inpatient treatment programs for compulsive gamblers. The maximum bed capacity is approximatly one hundred.

The number of compulsive gamblers in this country today runs into the millions. Who will provide the treatment, and who will pay for it? Not the gambling addicts - they have neither the money nor the health insurance - that was spent at the casinos or on other gambling.

This country can ill afford to ignore the problems caused by the proliferation of gambling and the resultant increase in compulsive gambling. We do not need the economic ruin, broken homes and crime brought on by this industry, which encourages instant gratification, somehting for nothing, while making a mockery of family, work and community. This country needs your concern and your action.

Thank you for your attention.

FRANK R WOLF
10TH DISTRICT, VIRGINIA

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CONSTITUENT SERVICES OFFICES
13873 PARK CENTER ROAD
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WINCHESTER, VA 22601
(703) 667-0990

Congress of the United States
House of Representatives
Washington, DC 20515-4610

COMMITTEE ON APPROPRIATIONS
SUBCOMMITTEES
TRANSPORTATION
TREASURY—POSTAL SERVICE—GENERAL GOVERNMENT
COMMISSION ON SECURITY AND COOPERATION IN EUROPE

The Honorable Frank R. Wolf
September 21, 1994
Statement Before the House Small Business Committee

Chairman LaFalce, distinguished members of the House Committee on Small Business, I appreciate having the opportunity to submit the following statement for the record on the issue of casino and riverboat gambling. I commend you, Mr. Chairman, for holding this informational hearing because there are many details about gambling which remain mysterious, and, as a rapidly expanding industry, it is appropriate for Congress to investigate the effects, detrimental or otherwise, of these growing gaming concerns.

In a recent study, Professor Robert Goodman, who will testify before this Committee, found that costs associated with casino and riverboat gambling were always underestimated by gambling proponents. Few of the localities studied prepared useful economic impact studies. Professor Goodman concluded that "[w]here such studies were done they tended to be self serving, examining gambling from a gambling industry, rather than an objective community economic development perspective."

If policy makers are using research prepared by the casino industry itself, what information then are they not considering? Those in the restaurant business, entertainment business, tourism industry, as well as other businesses are concerned about the cannibalization of existing businesses by gambling enterprises. Gambling does not necessarily stimulate demand for entertainment, it merely shifts disposable income from one expenditure to casinos. This cost shifting does not stimulate other sectors of the economy and may even be a net loss. One who spends his money on gambling forgoes some other form of entertainment like a trip to the beach or movies, a night out to eat, or a day trip to one of Virginia's many historic places. Furthermore, as gambling increases, expenditures for clothing, recreation services, business services, new cars and service stations will decline.

Professor Goodman found that casinos have negative economic impacts on nearby restaurants. "As a way of enticing players to stay on the premises, casino owners generally include a variety of low priced food services and restaurants within their casino complexes. Food prices are often subsidized . . . As a result, independent restaurants close or have difficulty competing with those in the casinos." As an example of the deleterious impact gambling has on the restaurant industry, Professor Goodman points out that the number of restaurants in Atlantic City declined from 243 in 1977, the year after casinos were legalized, to 146 in 1987.

Crime is another cost that defenders of gambling try to ignore. Since 1978, Atlantic City's crime index exceeded that of the state as a whole. By 1981, there was a near tripling of total crimes. That brought Atlantic City from 50th in the nation in per capita crime to first. Increased expenditures on police and other crime prevention measures will be needed to combat loansharking, prostitution, drug trafficking and other crimes that increase because of the introduction of gambling.

Research also shows that the social and economic costs of behavioral gambling are considerable and it is indisputable that compulsive and pathological gambling increases in communities that permit gambling. Various studies indicate that the mean gambling related debt (excluding car loans, mortgages and other 'legitimate' debt) of people in compulsive gambling therapy ranged from about $53,000 to $92,000. Compulsive gamblers in New Jersey were accumulating an estimated $514 million in yearly debt. Who pays that debt? The answer is everyone pays in the form of increased prices on goods and services and increased taxes.

Also, the work habits of problem gamblers are costly to employers which drives the costs of goods and services up for the rest of us. Pathological gamblers engage in forgery, theft, embezzlement, drug dealing and property crimes to pay off gambling debts. They are responsible for an estimated $1.3 billion worth of insurance-related fraud per year which is borne by the rest of us in the form of increased premiums, deductibles, or copayments.

Other costs cited by Professor Goodman include impaired judgment and efficiency on the job, unrecovered loans, divorces, added administrative costs in programs like unemployment compensation, lower property values, the costs of depression and physical illnesses related to stress, lower quality of family life and increased suicide attempts by gamblers and spouses of pathological gamblers.

Proponents of riverboat gambling will argue that these are costs associated with land based casinos, not riverboats. Riverboat gambling brings most of the same costs as land based gambling. Moreover, once riverboat gambling is established, land based casinos soon follow. In the Rust Belt, where riverboat gambling began, casinos now line the Mississippi River moored to the dock never to leave the riverfront. Also, once the riverboat gambling business becomes established in a community, they demand concessions on drink limits, hours of operation, infrastructure improvements like roads, police, water and sewer, which attracts even more gambling related problems. Before long, the unsuspecting community is saddled with permanent, land-based casinos.

Mr. Chairman, today you will hear from experts who will expand on these serious concerns. I want you to know that this member is concerned about the economic effects a proliferating gambling industry has on other industries, communities, and families, and I look forward to working with you and the Committee as you continue to study this important issue.

I request unanimous consent that the following statement by Professor John Kindt from the University of Illinois at Urbana-Champaign be included in the record.

Mayor
A. J. Holloway

Council Members
Tom Ferrill, Ward 1
Eric E. Dickey, Ward 2
Jim Compton, Ward 3
Russell I. Bistle, Ward 4
Dianne G. Harenski, Ward 5
Tom Wall, Ward 6
Mickey J. Bellande, Sr., Ward 7

P.O. Box 429
Biloxi, Mississippi 39533
(601) 435-6300

September 19, 1994

Honorable John J. LaFalce
House of Representatives
2361 Rayburn House Office Building
Washington, DC 20515-6315

Dear Congressman LaFalce:

In response to your recent invitation to testify before the House Committee on Small Business, I regret that I will be unable to personally attend, but I would like to submit written testimony.

As you may know, since the advent of Mississippi Gulf Coast dockside gaming in the summer of 1992, the City of Biloxi has become the statewide leader in terms of casino development. Currently, there are ten (10) casinos operating within our city limits and four (4) more in the planning and development stage. These casinos range in size from 30,000 square feet to 100,000 square feet of gaming space and employ approximately 1,000 people each.

Obviously, the impact these casinos have made on both the citizens and physical geography of Biloxi is unparalled in our City's long history. As the accompanying factsheet should illustrate, dockside gaming has forever changed the character of our once small, southern city. At this point, the two (2) years of casino development in our City has been in a positive light. However, I do feel that if the industry continues to grow at such a rapid pace, a negative side will emerge.

We are beginning to see evidence of the negative repercussions of the casino industry as they continue to proliferate throughout our city, the State of Mississippi and the Nation as a whole. Recently, Biloxi had its first casino bankruptcy and it appears two others are in financial trouble. Needless to say, such failures will leave the employment security of thousands of individuals in a precarious position and the financial stability of many local vendors in an equally questionable position.

With the boom of dockside gaming in Biloxi has come the need for additional affordable housing. Property values have risen dramatically as have rent prices for multiple-family housing. This tremendous increase in rent has unfortunately created quite a burden for fixed-income individuals such as the elderly. Additionally, Keesler Air Force Base, located in Biloxi, has had trouble securing adequate housing for all of their personnel. Their expansion plans and ultimate mission could certainly be adversely affected as a result of this competitive housing situation.

As casino tax revenues have placed additional monies in the City's coffers, increased service demands have dictated that these funds be spent at an elevated pace. Between 1991/1992 and our recently adopted 1994/1995 budget, total governmental spending has gone from $25,420,736 to $57,089,634. Public Safety spending has more than doubled during this time span in an attempt to curtail the upward trend of criminal activity which I feel is a result of the large influx of people to our City.

Approximately thirty-seven percent (37%) of our fiscal year 1994/1995 budget is dedicated to capital projects. In the year prior to the advent of dockside gaming, 1991/1992, this figure was approximately two percent (2%). This expenditure was necessitated due to the increased burden placed upon our city's infrastructure by such a large number of citizens. Our wastewater system is operating at 100+ percent and a large majority of our streets need overlaying as traffic has increased four-fold.

I personally feel that as other jurisdictions introduce casino gaming, the rapid growth which the City of Biloxi is experiencing will naturally subside. Once the industry stabilizes and our City government has an opportunity to "catch its breath", Biloxi will remain a national contender in the casino marketplace, but to a lesser extent. With the preceding commentary, I do not wish to place casino gaming in a negative light. However, I do wish to illustrate that with the good fortune of increased tax dollars, tourists and general business development, there is a price one must pay.

In conclusion, I hope my commentary has been helpful in assisting you in determining the impact of casino gaming in American communities. If you have any further questions or inquiries, please feel free to contact me or my staff at any time.

Sincerely yours,

A. J. HOLLOWAY, JR.
Mayor

AJH/kc
Encl.

DOCKSIDE GAMING IMPACT FACTSHEET

CASINOS & EMPLOYMENT --

- Currently, Biloxi has ten (10) casinos open with four (4) in the planning and/or construction stage.

- Each casino employs approximately one thousand (1,000) individuals with a breakdown as follows:

  33% are local Biloxians
  33% relocated to Biloxi to work & live
  33% work in Biloxi & live elsewhere

- Current unemployment figures for Biloxi illustrate the impact dockside gaming has had on the labor force

  1991 8.1%
  1992 5.7%
  1993 4.1%
  1994 5.8%

CONSTRUCTION & HOUSING --

- The total dollar valuation for building permits issued within the City of Biloxi reached an all-time high of $134,430,677 (commercial & residential). The yearly breakdown was:

  1991 $ 11,040,454
  1992 $ 17,540,310
  1993 $134,430,677

- Prior to 1991 new housing starts averaged approximately 75 per year. In 1993 there were 135 new homes constructed and 125 residential lots were platted for future construction.

- The average sales price for a residential home has increased 41%, going from $59,860 to $84,379 in the second quarter of 1994.

- Based on a May 1994 survey conducted by the Federal Home Loan Bank System, the vacancy rate for multi-family (apartment) housing in Biloxi is 1.3%

- The average rental rate among one-bedroom units is $331.71 and has increased 12.8% over the average in 1991. Among two-bedroom apartment the average rental rate is $390.11 and has increased 8.1%

- Based on a report by the Biloxi Housing Authority, Biloxi has 936 public housing units. They are at 100% capacity and there is a waiting list of 466 individuals/families.

♦Ryder Truck Rentals conducted a study in January 1994, which showed that the Biloxi-Gulfport area ranked 11th among the top 20 small cities (under 100,000 population) where people relocated in 1993.

ECONOMY & GOVERNMENT --

♦Tourism sales represent approximately 47% of retail sales in the Biloxi economy.

♦According to the Harrison County Tourism Commission, visitation has doubled from 1.5 million tourists in 1992 to over 3 million tourists during 1993.

♦Total number of people attending conventions at the Coast Coliseum increased from 71,146 delegates to 85,490 between 1991 and 1993. The economic impact at these conventions rose from $44,320,685 in 1991 to $53,256,337 in 1993.

♦Between August 1992 and August 1994 the gaming revenue tax for the City of Biloxi generated $17.7 million. This money was disbursed between the City's General Fund, Public Schools and Public Safety.

♦The Capital outlay budget for the City of Biloxi grew dramatically in an attempt to facilitate dockside gaming and general population growth. These expenditures include all infrastructure improvements and are as follows:

FY 1991/1992	$ 483,150
FY 1992/1993	$ 2,255,203
FY 1993/1994	$ 5,743,629
FY 1994/1995	$21,084,651

♦The Public Safety budget for the City of Biloxi has also increased dramatically as a result of the increased burdens brought about by dockside gaming. These expenditures include both police and fire departments and are as follows:

FY 1991/1992	$ 5,501,294
FY 1992/1993	$ 6,549,190
FY 1993/1994	$ 8,111,144
FY 1994/1995	$11,384,240

JOHN J. LAFALCE, NEW YORK
CHAIRMAN

JAN MEYERS, KANSAS

Congress of the United States

House of Representatives

103d Congress

Committee on Small Business

2361 Rayburn House Office Building

Washington, DC 20515-6315

November 28, 1994

BY FACSIMILE AND PERSONAL MAIL

The Honorable Ada Deer
Assistant Secretary for Indian Affairs
Department of Interior
1849 C Street, NW
Washington, DC 20240

Dear Ms. Deer:

As you know by now, the hearing of the Small Business Committee scheduled for Monday, November 28, has been canceled. As I continue to explore the issue of Indian gaming outside of the hearing forum, I am writing to request that you submit a statement to the Small Business Committee, along with relevant documents, outlining your perspective and concerns related to this important issue.

As in our September 28 hearing on casino gambling, I am interested in exploring both the impact of casinos--on small businesses, communities, and the nation as a whole--and the regulatory structure that seeks to control the more harmful aspects of gambling. I would be most interested in hearing from you on the following aspects of Indian gaming: the social and economic impact on the tribes themselves; the impact on communities and businesses surrounding the gaming establishments; and the regulatory issues that have arisen since enactment of the Indian Gaming Regulatory Act.

As you well know, gambling is a unique recreational activity that brings with it costs and benefits not associated with other forms of entertainment. My overriding concern is that all parties responsible for the regulation of gambling are sensitive and responsive to the costs of gambling, in social and economic terms. To this end, I would like to collect and disseminate as much quality information, research, and advice on this issue as possible. I hope you will be able to help me in this effort.

Please send your statement addressed to me at the Committee by Friday, December 2. If you have questions or will not be able to submit a statement, please contact Mr. Scott Morris at the Committee. Thank you.

Sincerely,

JOHN J. LaFALCE
Chairman

JJL:sm

STATEMENT FOR THE RECORD OF MS. ADA E. DEER, ASSISTANT SECRETARY - INDIAN AFFAIRS, U. S. DEPARTMENT OF THE INTERIOR, ON THE SOCIAL AND ECONOMIC IMPACTS OF INDIAN GAMING.

This Statement is provided for the record on the social and economic impacts of Tribe-owned gaming on small businesses, the social and economic impact on the Tribes themselves, the impact on the communities and businesses surrounding the gaming establishments, and on the regulatory issues that have arisen since enactment of the Indian Gaming Regulatory Act (IGRA).

The principal goal of Federal Indian policy is to promote tribal economic development, tribal self-sufficiency, and strong tribal governments. On many reservations, gaming has been the most successful enterprise conducted by Tribes. The purpose of IGRA is to provide a Federal statutory basis for the regulation of gaming adequate enough to shield Tribe-owned gaming from organized crime and other corrupting influences, to ensure that Tribes are the primary beneficiaries of the gaming operation, to assure that gaming is conducted fairly and honestly by operators and players, and to protect such gaming as a means of generating revenue for Tribes.

The Act authorizes Indian tribes to engage in three classes of gaming on Indian lands.

Class I:	Traditional social games with prizes of minimal value.
Class II:	All forms of bingo and similar games such as pull tabs, lotto and punchboards provided such games are played in the same location as bingo games.
Class III:	All other games of chance. This gaming is allowed only if the State permits such gaming for any purpose and a Tribal-State compact has been entered into between the Tribe and State.

The IGRA mandates five uses for a tribe's net gaming revenues:

(1) to fund tribal government operations or programs;
(2) to provide for general welfare of the tribe;
(3) to promote tribal economic development;
(4) to donate to charitable organizations; and
(5) to help fund local governmental agencies.

The IGRA also allows distribution of net gaming revenues as per capita payments to tribal members provided the Tribe has prepared a Revenue Allocation Plan (RAP) that allocates revenues to the above mentioned uses authorized by IGRA. The Secretary must approve the RAP and find it adequate.

Exact figures on the amount of gaming revenues to Tribes is not readily attainable because there is no legal requirement for Tribes to report its gaming revenues to the Bureau of Indian Affairs (BIA). However, Tribes readily share information about the benefits that have been derived from gaming revenues. Gaming revenues are used to supplement Federally funded support programs.

Unlike profits from commercial casinos in Nevada and New Jersey, revenue from Tribe-owned gaming accrues to the Tribe as a government. Tribes are mandated by law to spend gaming revenues on the reservation for governmental purposes and for the welfare of their members.

Information obtained from Tribes through BIA's Area Offices provide the following examples of how these revenues are used:

- education: scholarships, stipends for college students, new school facilities, day care subsidies, school buses, youth programs, cultural enrichment;
- housing: construction of new homes, repairs, senior citizen housing;
- infrastructure: new roads, water and sewer systems, community centers;

- health care: funding health insurance programs, new medical facilities, elderly programs and substance abuse programs;

- economic development: land acquisitions, new business development, long-term investments;

- community grants: payments to local governments for roads, schools, police protection and social service programs;

- direct payments: emergency assistance, burial programs, small business purchases, and per capita payments to tribal members, including the establishment of trust funds for minors;

- jobs: employment of tribal members, non-members and non-Indians within the gaming facility as well as other tribal enterprises.

Studies conducted on the economic impact of Tribe-owned gaming enterprises in Minnesota, Michigan, Wisconsin and New Mexico indicate that the rapid growth of employment attributed to these facilities has reduced the burden on government assistance programs. The studies are provided with this statement.

Tribe-owned gaming brings economic enhancement to Indian and non-Indian communities and results in increased State and local income taxes from the salaries, increased sales taxes paid for goods and services, and entrepreneurial profits resulting from the increased sales by businesses located in and around the gaming facilities. Additionally, the per capita payments made to individual tribal members are subject to Federal income taxes. This income also filters back into the community through the purchase of goods and services from the local businesses.

Many Tribes see gaming as an effective means of generating revenue for tribal governments. As a matter of Federal Policy, the Department of the Interior supports Tribe-owned gaming as a viable economic development opportunity. This concludes my statement.

JOHN J. LAFALCE, NEW YORK
CHAIRMAN

JAN MEYERS, KANSAS

Congress of the United States
House of Representatives
103d Congress
Committee on Small Business
2361 Rayburn House Office Building
Washington, DC 20515-6315

November 28, 1994

BY FACSIMILE AND PERSONAL MAIL

Mr. Arnold Hewes
Minnesota Restaurant, Hotel & Resort Assoc.
871 Jefferson AVE
St. Paul, MN 55102-2894

Dear Mr. Hewes:

As you know by now, the hearing of the Small Business Committee scheduled for Monday, November 28, has been canceled. As I continue to explore the issue of Indian gaming outside of the hearing forum, I am writing to request that you submit a statement to the Small Business Committee, along with relevant documents, outlining your organization's perspective and concerns related to this important issue.

As in our September 21 hearing on casino gambling, I am interested in exploring both the impact of casinos--on small businesses, communities, and the nation as a whole--and the regulatory structure that seeks to control the more harmful aspects of gambling. I would be most interested in hearing your perspective on Minnesota's experience with Indian gaming, and particularly its impact on small businesses and communities surrounding the tribal casinos.

As you well know, gambling is a unique recreational activity that brings with it costs and benefits not associated with other forms of entertainment. My overriding concern is that all parties responsible for the regulation of gambling are sensitive and responsive to the costs of gambling, in social and economic terms. To this end, I would like to collect and disseminate as much quality information, research, and advice on this issue as possible. I hope you will be able to help me in this effort.

Please send your statement addressed to me at the Committee by Friday, December 2. If you have questions or will not be able to submit a statement, please contact Mr. Scott Morris at the Committee. Thank you.

Sincerely,

JOHN J. LaFALCE
Chairman

JJL:sm

UPPER MIDWEST HOSPITALITY, INC.
871 Jefferson Ave., St. Paul, MN 55102 Phone (612) 222-7401

December 6, 1994

Chairman John LaFalce
U.S. House Committee on Small Business
2361 Rayburn House Office Building
Washington, DC 20515-6315

Dear Congressman LaFalce:

I would like to start by thanking you for the invitation to testify before your committee regarding the issue of tribal casino gaming. It was unfortunate that the hearing had to be cancelled. As President of the nearly 3,000 members that make up the Minnesota Restaurant, Hotel and Resort Associations, I felt it was a golden opportunity to share with you the results of a gambling survey we conducted.

As you may know, the growth of gambling in Minnesota has grown at an extraordinary rate. This "new" industry to the state represents more than $6 billion in wagering. Since the Indian Gaming Act of 1988 was signed into law 17 tribal casinos have opened in our state. These casinos combined represent over $4 billion in annual wagering.

This means the gambling industry has surpassed our $6 billion hospitality and tourism industry, and is dramatically hurting the businesses we represent. The loss of significant discretionary leisure dollars that used to be spent on family vacations, restaurant meals and retail shopping are now being directed toward slot machines and blackjack tables.

The casinos, in most cases, are also in direct competition with food and lodging establishments by offering low cost buffets and inexpensive hotel/motel rooms. They are able to subsidize these costs with gambling profits and much more favorable tax laws and regulations which put them at a significant economic advantage over the private sector.

Our survey results support these statements. The following are the major conclusions:

* Minnesota's hospitality businesses are being negatively impacted by gambling.

* Jobs are being lost seven times faster than they are being created in the private sector of the hospitality industry.

* Our members are overwhelmingly opposed to tribal casinos opening restaurant, hotel and resort businesses.

* Gambling is having a negative impact on local communities.

* The industry is divided over the question of either expanding or eliminating all forms of gambling.

The bottom line is that our hospitality industry is being severely impacted by the rapid growth of tribal gambling and its effects are becoming more apparent. Some method of creating a level playing field needs to be created. This must be addressed by Congress because state governments are virtually powerless when it comes to Indian gaming.

I would like to thank you very much for your time. We are currently in the process of updating our survey results, and will be pleased to share them with you and your committee as soon as we have the results back.

Sincerely,

Arnold J. Hewes
President

AJH/dtd

Enclosures: Executive Summary
Press Release

News Release

MINNESOTA RESTAURANT, HOTEL AND RESORT ASSOCIATIONS
871 Jefferson Avenue, St. Paul, Minnesota 55102 Telephone: (612) 222-7401

FOR IMMEDIATE RELEASE
Wednesday, January 13, 1993

FOR MORE INFORMATION CONTACT:
Arnold J. Hewes, Executive Vice President
(612) 222-7401

MINNESOTA'S RESTAURANTS, HOTELS & RESORTS ARE 'LOSERS' IN GAMBLING EXPLOSION, SURVEY RESULTS REVEAL

Minnesota's restaurants, hotels and resorts are being hurt by the current gambling explosion, according to the results of a comprehensive survey conducted by the Minnesota Restaurant, Hotel & Resort Associations—*Minnesota's Hospitality Organization.*

Customer counts are down, sales volumes are declining, jobs are being eliminated and future business will be harmed, members of the three associations said in their record-breaking response.

A total of 908 members (45%) of the Associations' more than 2,000 member businesses returned the survey, an unprecedented indication of interest in a single subject.

Because of multiple ownership, the three associations represent more than 2,300 hospitality business units in Minnesota. The vast majority of these are small, family-owned and operated businesses. Of those responding to the survey, 76% have fewer than 50 employees and 50% have fewer than 15 employees.

Seven major conclusions can be drawn from the survey and they are as follows:

1. Minnesota's restaurants, hotels and resorts are being negatively impacted by gambling. Business has been lost and future business will be hurt.

Nearly four of every 10 members (38%) say business has been lost due to gambling, while only one of every 10 members (10%) say business is up because of gambling. Casinos are cited by 70% as the primary reason for these changes.

Looking to the future, 53% say business will decline due to gambling, 32% say they expect no change and only 10% say business will be up because of gambling.

When asked about the negative aspects of gambling most affecting their business, 62% cited the loss of discretionary recreation dollars and 47% said there is an unlevel playing field.

2. Jobs are being lost seven times faster than they are being created in the private sector of the hospitality industry.

A total of 180 members say they have eliminated nearly 1,100 jobs due to gambling, while 16 members say they have created nearly 150 jobs. Projecting these survey results to the entire membership, a strong case can be made that more than 2,200 jobs have been lost because of the rapid growth of gambling, while only 300 have been created.

As for the state's entire hospitality industry, it would seem likely that several thousand more jobs have been lost, primarily in the restaurant industry, where more than half of the job loss has occurred.

3. Restaurant, hotel and resort owners are overwhelmingly opposed to casinos entering the restaurant, hotel and resort business.

A total of 84% said they are opposed to the casinos entering the restaurant, hotel, motel, resort and conference center industries, with 53% being strongly opposed. Thirteen percent did support these ventures, however.

Members' feelings were quite strong in this area, often citing the inability to compete with casino buffets and lodging rates. The unequal taxation policies of the private sector compared to the casinos also were mentioned frequently.

4. Gambling is having a negative impact on local communities.

Slightly over half the respondents (51%) say gambling is having a negative affect on their community, while only 11% say it is positive. Fourteen percent say gambling is having no impact and 24% say they don't know.

5. There is enthusiastic support for charitable gambling, but little support for riverboat gambling.

Charitable gambling was supported by 56% of the respondents, opposed by 26%, while 18% had no opinion. Riverboat gambling was opposed by 58%, supported by 23%, while 19% had no opinion.

6. On the controversial subject of video lottery, the hospitality industry and the three associations have mixed views. Hotel Association members support the concept, Restaurant Association

members are evenly divided and Resort Association members oppose it.

When asked if they would support legislation to legalize video lottery machines in Minnesota, the three associations responded as follows:

Association	Favor	Oppose	No Opinion
Hotel Association:	49%	35%	16%
Restaurant Association:	43%	42%	15%
Resort Association:	28%	58%	14%

Because current legislative proposals would authorize video lottery machines only in establishments with on-sale liquor licenses, this subject was evaluated in regard to the views of those with such licenses.

It was determined that 36% of the respondents in the three associations have liquor licenses and that 57% favor video lottery and that 53% would actually install the machines, if legalized.

Over half of the total respondents (56%) said video lottery should be opened up to businesses without on-sale liquor licenses. Twenty six percent said it should be licensees only, while 18% had no opinion.

7. Minnesota's hospitality industry is literally split right down the middle over the question of allowing gambling for all businesses or eliminating all forms of gambling in the state.

When given the choice of opening gambling to all businesses in the state or eliminating all forms of gambling in Minnesota, the result was as follows: 37.5% of the respondents wanted to open it up, 37.4% wanted to eliminate it and 25.1% had no opinion.

The results of this survey will be used by the Associations' Joint Legislative Committee as it formulates policy in all areas of gambling for the 1993-94 session of the state legislature.

The membership breakdown of *Minnesota's Hospitality Organization* is as follows:

Minnesota Restaurant Association—1,100 members with 1,400 units

Minnesota Hotel & Lodging Association—160 major properties with nearly 25,000 guest rooms

Minnesota Resort Association—725 resorts

Collectively, the three associations are the largest, private sector hospitality organization in Minnesota, accounting for the vast majority of the industry's economic impact. The Associations are managed by a professional staff of 16 and are headquartered at 871 Jefferson Avenue, St. Paul.

Minnesota Restaurant, Hotel & Resort Associations

Minnesota's Hospitality Organization

Gambling Survey Executive Summary

The following are the results of the Minnesota Restaurant, Hotel and Resort Associations' gambling survey conducted late last year. The Associations received an unprecedented response. From the more than 2,000 surveys sent out, 908 were returned, giving us a 45% return rate.

The majority of responses came from small businesses (consistent with our Associations' membership) — 76% of survey respondents have fewer than 50 employees (50% have fewer than 15 employees).

CONCLUSIONS

#1) Minnesota's hospitality businesses are being negatively impacted by gambling. Business has been lost and future business will be hurt.

- ✔ 4 out of 10 respondents said that their business has been hurt, or more precisely, 38% say they have lost business and 10% say business is up. The form of gambling most attributed to these changes are the tribal casinos at 70%.
- ✔ Our members predict that the chance of losing business in the future is five times greater than that of gaining business. 53% say future business will decrease, 32% say there will be no change and 10% say it will increase.
- ✔ 62% of the respondents say that the negative aspect of gambling most affecting their business is the loss of discretionary dollars and 47% say there is an unlevel playing field.

#2) Jobs are being lost seven times faster than they are being created in the private sector of the hospitality industry.

- ✔ 180 of our hospitality industry members have eliminated 1,061 jobs, while 16 have created 142 jobs. This produces a net loss of 919 jobs from 45% of our membership.

#3) The respondents are overwhelmingly opposed to casinos entering the restaurant, hotel and resort business.

- ✔ 84% are opposed to casinos entering the restaurant and lodging business (53% are strongly opposed), while 13% support these ventures.

#4) *Gambling is having a negative impact on local communities.*

- ✔ 51% say that gambling is having a negative affect on their community, while only 11% say that it is positive.

#5) *There is enthusiastic support for charitable gambling, but little support for riverboat gambling.*

- ✔ 56% support charitable gambling, 26% oppose it and 18% have no opinion.
- ✔ 58% oppose the introduction of riverboat gambling, 23% support it and 19% have no opinion.

#6) *The hospitality industry has mixed views regarding video lottery.*

- ✔ Hotel Association members support video lottery (49% favor/35% oppose).
- ✔ Restaurant Association members are split (43% favor/42% oppose).
- ✔ Resort Association members oppose video lottery (28% favor/58% oppose).
- ✔ Over half of the total respondents (56%) said video lottery should be opened up to businesses without on-sale liquor licenses. 26% said it should be licensees only, while 18% had no opinion.
- ✔ 36% of our members responding to the survey have liquor licenses. 57% of these businesses favor video lottery and 53% would install the video lottery terminals if they are legalized.

#7) *The hospitality industry is evenly divided over the question of allowing gambling for all businesses or eliminating all forms of gambling.*

- ✔ When given the choice of opening gambling to all businesses in Minnesota or eliminating all forms of gambling; 37.5% (335 members) wanted to open it up, 37.4% (334 members) wanted to eliminate it and 25.1% (224 members) had no opinion.

For Additional Information Contact:

Arnold J. Hewes	D. Thomas Day	David Siegel
Executive Vice President	Government Affairs Specialist	Communications Director

Minnesota Restaurant, Hotel and Resort Associations
Minnesota's Hospitality Organization
871 Jefferson Ave.
St. Paul, MN 55102-2894
Phone: (612) 222-7401

SELECTED COMMENTS FROM SURVEY RESPONDENTS

Business and Jobs

"The most frequently heard comments from our customers are, 'We were going to order full dinners but we stopped at the casino on our way up north.' If the conversation continues they explain the quality of food they get for a few dollars which we can't possibly compete with or they've already 'dropped' their money at the casino and have less to spend at our business and community."

"I may be out of business before any changes can be made by our state legislature/governor."

"In one area of less than 4 sq. blocks, 6 restaurants have closed. There is a problem and unless we do something now, we'll all be working at the casinos."

"Why legalize gambling for a special interest group?"

"It is about impossible for regular businesses to survive next to a gaming resort. Most small operators will not be here in five years. Check Las Vegas and Reno. Once they move into the metro area, we will all eat lunch in a casino as the price will be cheap."

Unfair Competition

"How can I compete with casinos who offer a bus trip to Morton for $5 and $30 of silver to play with, plus a coupon worth $5 to eat on! Thanks for nothing from our state government!"

"Casinos are dramatically hurting most restaurants around us. As they start building motels this will hurt the resorts as the casinos don't need to make a profit on food or rooms AND are not taxed. We are looking at building a restaurant as a customer service knowing we can't compete with the Indians, but we need it to compete."

"We simply cannot compete with tribes who can afford to pay double the wages to staff, charge half of what we do for meals, etc."

Video Lottery

"Video lottery would further erode the image of MN as a wholesome vacation area. Secondly, it wouldn't create a 'level playing field.' Establishments without on-sale liquor would be at a disadvantage. The Associations' efforts should be directed toward legislation allowing the state to tax the casinos."

"I firmly believe that all Minnesota businesses and taxpayers should be allowed to have legalized gambling. It would create more jobs, bettering the economy for everyone and give everyone the right to choose their own right to utilize all the benefits that would come from within!"

"I just moved here from South Dakota. Go there and see what video lottery machines have done to the restaurant business. Too bad, too!"

"The positive effect that legalized gambling would have on my establishment would be equal to or greater than the negative effect that changing the drinking age had on my property."

"I feel strongly that video gambling should be available to all businesses, not just on-sale liquor."

JOHN J. LAFALCE, New York
Chairman

JAN MEYERS, Kansas

Congress of the United States

House of Representatives

103d Congress

Committee on Small Business

2361 Rayburn House Office Building

Washington, DC 20515-6315

November 28, 1994

BY FACSIMILE AND PERSONAL MAIL

Ms. Christine Milliken
National Association of Attorneys General
444 North Capitol Street, Suite 339
Washington, DC 20001

Dear Ms. Milliken:

As you know by now, the hearing of the Small Business Committee scheduled for Monday, November 28, has been canceled. As I continue to explore the issue of Indian gaming outside of the hearing forum, I am writing to request that you submit a statement to the Small Business Committee, along with relevant documents, outlining your organization's perspective and concerns related to this important issue.

As in our September 21 hearing on casino gambling, I am interested in exploring both the impact of casinos--on small businesses, communities, and the nation as a whole--and the regulatory structure that seeks to control the more harmful aspects of gambling. I would be most interested in hearing the National Association of Attorneys General perspective on the regulatory issues that have arisen since enactment of the Indian Gaming Regulatory Act, as well as your members' viewpoint on the impact of the casinos on communities in the vicinity of the reservations.

As you well know, gambling is a unique recreational activity that brings with it costs and benefits not associated with other forms of entertainment. My overriding concern is that all parties responsible for the regulation of gambling are sensitive and responsive to the costs of gambling, in social and economic terms. To this end, I would like to collect and disseminate as much quality information, research, and advice on this issue as possible. I hope you will be able to help me in this effort.

Please send your statement addressed to me at the Committee by Friday, December 2. If you have questions or will not be able to submit a statement, please contact Mr. Scott Morris at the Committee. Thank you.

Sincerely,

JOHN J. LaFALCE
Chairman

JJL:sm

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Attorney General of Minnesota

November 29, 1994

AIDE:
CODE:
DEC 0 5 1995
COOR. #:
RECORD #

Honorable John J. LaFalce
House of Representatives
Committee on Small Business
2361 Rayburn House Office Building
Washington, D.C. 20515-6315

Dear Mr. LaFalce:

In response to your letter of November 28, 1994, I am enclosing the most recent statement by NAAG on Indian Gaming. Attorney General James Doyle, Chair of the Association's, IGRA Task Force, presented the Task Force's views in July to Senator Inouye's Committee. The testimony endorses a strong regulatory regime as being essential to protect consumers and employers alike. Since that time the Association has not met and has not had the opportunity to further comment on this area.

I have previously sent the Committee a number of other materials on gaming in general including a resolution passed by the Association in support of a national study of gaming.

Since July a recent court decision, *Rumsey Indian Rancheria v. Wilson (Calif.)* ___ F.3d has clarified many of the key issues related to the scope of gaming. The 9th Circuit has ruled that "IGRA does not require a state to negotiate over one form of a gaming activity simply because it has legalized another, albeit similar form of gaming". The Court reversed the portion of the District Court decision (No. S-92-812-GEB-JFM (E.D. Cal.), which had required California to negotiate over slot machines even though slot machines and other gambling devices are specifically prohibited under California law. The 9th Circuit agreed with the 8th Circuit decision in *Cheyenne River Sioux Tribe v. South Dakota*, 3 F.3d 273 (8th Cir. 1993), that the

"plain meaning" of IGRA was that "a state need only allow Indian tribes to operate games that others can operate, but need not give tribes what others cannot have." The Court specifically rejected application of *Cabazon's* "prohibitory/regulatory" test to determination of what is negotiable under IGRA.

I hope this material is of assistance to the Committee.

Sincerely,

Christine T. Milliken

CTM:vdj
Enclosure
cc: Attorney General James Doyle

TESTIMONY OF

THE HONORABLE JAMES E. DOYLE

Attorney General of the State of Wisconsin

Chair, National Association of Attorneys General IGRA Task Force

BEFORE THE SENATE COMMITTEE ON INDIAN AFFAIRS

Good afternoon, Chairman Inouye, Vice Chairman McCain and members of the Committee. I appreciate the opportunity to appear before this committee today on behalf of the National Association of Attorneys General and as Chair of the IGRA Task Force to discuss the states' perspective on the Indian Gaming Regulatory Amendments Act of 1994, recently introduced by Senators Inouye and McCain.

As you know, as chairman for the National Association of Attorneys General Gaming Working Group, on July 2, 1993, I attended a meeting of states and tribes at the invitation of Senator Inouye and Senator McCain. As I indicated then, the attorneys general support the concept of tribal economic development, self-sufficiency and sovereignty. We are grateful to Senators Inouye and McCain for their efforts in attempting to reach a consensus bill between the tribes and the states. I am aware that Governor Sullivan addressed the Committee last week and expressed his view that the governors came to the table believing that clarification of the law would reduce the costly and divisive litigation over several ambiguities and accomplish a speedier process for

obtaining compacts for the tribes. NAAG participated along with the governors in an attempt to draft a bill which met those objectives. Our talks, while not resulting in full consensus, were successful in developing a better understanding of the myriad and difficult issues posed by legalized gaming. The NAAG task force believes this bill carries us all forward and accomplishes many of the goals of the process initiated by the senators. We do believe there are still some areas of this bill which can be improved or need clarification, however we believe that those problems can be overcome.

THE INOUYE-McCAIN AMENDMENTS

The essence of the compromise proposed and explored at length by the negotiation process sponsored by Senators Inouye and McCain was a concession by the states of their Tenth and Eleventh Amendment defenses, defenses which Governor Sullivan characterized as a significant sacrifice of the states' own sovereignty, in return for an expedited process through which tribal governments could achieve Class III gaming compacts within a reasonable time. The compromise also envisioned an alternative form of relief for tribes which were unable to achieve a compact through negotiation with the states or where states wished to stand on their Tenth and Eleventh Amendment defenses. On the states' side, the clarification of the scope of gaming, which would more clearly define the gaming activities which would be subject to negotiation, would establish a

threshold based on state law beyond which the governors would not be forced to negotiate. This legislation places that goal within reach. There is much in this bill that both tribes and states find of real value. However, given the nature of congressional hearings and the time constraints we are under, I have focused my remarks on those key provisions where we have suggestions for change. I will address several areas of specific concern and suggest specific changes which we believe will aid this bill in accomplishing its goals. In addition, I have appended to my written testimony a further description of these suggested amendments as well as a broader itemization of technical changes to the bill which are desirable. These technical changes are not as closely tied to policy concerns as those I will now address, and therefore I will not mention them specifically today.

BACKGROUND CHECKS AND LICENSING

One of the states' primary concerns regarding the bill as proposed is the exclusivity of licensing powers provided to the commission. The states are pleased that the Commission will play some role in licensing but we disagree with the proposal that the Commission have exclusive authority. States cannot have any effective regulatory role in Class III gaming without the ability to license gaming-related contractors.

As recognized by the original act, and put into practice by many states, states have a high level of interest in regulating gambling within their own borders. The gambling activity which occurs on Indian lands within a state cannot be viewed as separate from the state itself.

The states support the establishment of minimum federal standards for background checks and licensing of gaming-related contractors. However, we would propose that in cases where states and tribes through the appropriate compacting process agree to standards that meet or even exceed the federal standards, the states and tribes be allowed to perform these functions themselves. As part of our proposed modification, we would require the state to certify their licensing information to the Commission. The Commission would then provide that information to other states where an applicant may wish to be licensed.

This would eliminate the duplication of efforts which is so common under the current system, often burdening both the states and the licensees, while also facilitating greater communication and information sharing between the states who are in contact with individual licensees. Similar cooperative licensing schemes have been successful in other regulatory areas such as railroad safety and environment.

Many states, including my own, have already created the regulatory structure to license gaming-related contractors after thorough background checks. States can perform this task more efficiently and at less cost than a federal agency. States, having closer

physical proximity to the tribes, can more effectively monitor and review the activities associated with gaming-related contractors on a day-to-day basis.

GAMING SERVICE INDUSTRIES

The states support the commission's establishment of minimum licensing standards for major gaming service industries. This can be an effective tool for keeping organized crime and other illegal influences out of the casinos. Again, the exclusivity of commission licensing authority in this area is an issue of concern for the states, just as in gaming-related contractor licensing. These industries can have a major influence on the operation of casinos, and without effective regulation, they could become major conduits for money laundering and tax evasion within the casinos. If used wisely, the Commission could effectively close another potential trouble spot within the tribal casinos.

REVIEW OF EXISTING COMPACTS

The process by which existing compacts are brought into compliance with the amendments appears to allow tribes to unilaterally create their own new regulations without state involvement. This violates one of the core concepts upon which the current

compacts were based, that being that the state and tribe together agree as to the roles of their respective governments in the regulation of Class III gaming.

The provision should allow renegotiation of those specific portions of the compacts which the Commission finds do not meet the requirements of the act, unless the tribe and the state together agree to broader negotiations.

SCOPE OF GAMING AND THE COMPACT PROCESS

GAMING CATEGORIES

As I indicated earlier, from the states' perspective the essence of the compromise was the avoidance of Tenth and Eleventh Amendment defenses in return for a more definitive scope of gaming. We believe the bill accomplishes the goal of avoiding the states' Tenth and Eleventh Amendment defenses. The states are not required to negotiate against their wishes. Where the states choose not to waive their Eleventh Amendment immunity and join the compact process, the bill provides the tribes with the speedy alternative of negotiating a compact with the Secretary of the Interior, based on state law.

We do perceive some problems with the scope of gaming portions of the bill. First, the states' proposed language required that, in order for a gaming activity to be subject to negotiation, a gaming activity be in the same category as a legal gaming activity. That language was moved from where we recommended it be placed. The

placement in the current bill is such that it may not now accomplish the purpose which was intended. Our proposed language sought to require a state to negotiate only on a game which, even though prohibited as a matter of that state's criminal law, is not distinguishable from a gaming activity that is not so prohibited, and there is no rational basis for differentiating between the games. The bill then categorizes various gaming activities which "are distinguishable from each other." These include gaming devices, lottery games, banking games, pari-mutuel wagering and other games of chance.

The current structure seems to lend itself to the argument that any games within a particular category are, as a matter of law, indistinguishable from one another. This "any equals all" argument was the genesis of much of the litigation under the current IGRA. Let me illustrate this problem. If a scratch-off lottery game is permitted in a state, the argument can be made that other lottery-type games, such as Keno, are indistinguishable in its principal characteristics from the scratch-off game because they both come from within the lottery category of gaming. Thus, if any gaming activity within the lottery game category is allowed, the state must negotiate on all gaming activity within the lottery game category.

While this is an improvement on the current state of affairs because it narrows the number of games which will be disputed, it does not entirely avoid the dispute, which the working group views as a desirable goal and one which will further the overall goal of avoiding costly and divisive litigation. The intent of the states' language was to use the

definitions of "principal characteristics," contained in the bill to distinguish games within each gaming category. As an example, if a state prohibited seven card stud poker as a matter of criminal law but did not prohibit five card stud poker, the state would be required to negotiate both forms of stud poker unless a rational basis existed for differentiating the two games. It was not intended that, if a state did not criminally prohibit gambling on bridge, the state would be obliged to negotiate stud poker because both are within the category of "other games of chance."

SLOT MACHINES

There is also a drafting issue associated with the definition of slot machines and gambling devices. The definition of slot machines is not included in the definition of gambling devices. We believe that the definition of gambling devices should include the bill's definition of slot machines.

The definition of slot machines may not cover the traditional slot machines because of their uses of reels and drums rather than random number generators.

The definition of gambling device relies solely on the Johnson Act definitions, 15 U.S.C. § 1171(a)(2) or (3), and includes "any electronic or electro-mechanical facsimile." As currently drafted, the terms "electronic or electro-mechanical facsimile" will most likely be read to include electronic and electro-mechanical facsimiles of the gambling devices defined in § 1171(a)(2) and (3). If this is the case, certain games such as video

poker, video Keno and video pull-tabs, which may not come within the § 1171 definitions, may escape coverage. The attorneys general suggest that the phrase "of any game of chance" be added after "electronic and electro-mechanical facsimile." This terminology appears in the current act and would seem to avoid the problem.

We also note that the exclusion in the definition of Class II games contained in Section 4 (5)(B)(ii) excludes gaming devices as "defined in Section (1)(a)2. or Section (1)(a)3. of [the Johnson Act] or slot machines of any kind." The working group believes it would avoid further litigation to use "gaming devices as defined in this act or slot machines as defined in this act" rather than reliance on the Johnson Act language or "slot machines of any kind" as currently formulated.

CONSTITUTIONAL GAMBLING PROHIBITIONS

The provision in the amendments which makes "games not prohibited as a matter of state criminal law" subject to negotiation neglects to recognize that some states have prohibited specific games through the use of self-executing constitutional provisions. These types of prohibitions are a stronger statement of the state's public policy than state criminal law, but the ambiguity of that provision may make such games subject to negotiation under the amendments as currently drafted.

SOCIAL GAMING

The attorneys general have a concern over the definition of social gaming which I know was of concern to the governors also. The bill's definition of social gaming is narrower than current state social gaming laws. We see two solutions to this problem. The first is to provide a period of time for the states to conform their statutory definitions of social gaming with that definition in the bill. The second solution is to broaden the definition in the bill so that it is consistent with most state social gaming laws.

The attorneys general are also concerned with the inclusion of "nominal" amounts as a requirement for social gaming. "Nominal amount" is undefined and consequently will be quite difficult to enforce. The attorneys general believe that such an undefined term will foster an additional wave of litigation to determine what amounts are "nominal."

ASSESSMENTS FOR LOCAL GOVERNMENT INFRA-STRUCTURE COSTS

When I spoke to the chairman and vice chairman in May regarding the need for amendments to the current act, I stressed the increased burdens which have fallen on local governments in dealing with the advent of Indian gaming. I am happy to see that the bill makes clear that the negotiation process is an appropriate forum for negotiating tribal contributions to the costs of Indian gaming's impact on local government infra-structure.

The attorneys general strongly support the inclusion of this language. We thank the senators for responding to our plea for assistance in this regard.

INDIAN LANDS DEFINITION

The bill currently lacks a definition of Indian lands. Since the current definition section will be repealed, this will leave the act without any definition of Indian lands. We strongly recommend that a definition of Indian lands be inserted in the new definition section.

I would like to take this opportunity to point out a concern of some of the states regarding the current definition of Indian lands. The current definition divides Indian lands into two distinct categories: (1) Indian reservations and (2) other lands to which the tribes or individuals of the tribes own the fee or which is held in trust for their benefit. This latter group requires the Indian tribe "exercise governmental power" over the land. Many of the western states contain Indian reservations with substantial portions of land owned in fee by non-Indians. These states are concerned that, by including all lands within Indian reservations without regard to whether the tribe exercises governmental power over that land, some of the non-Indian land within the reservation boundaries will be used for gaming. We therefore recommend that the requirement that the Indian tribe exercise governmental power be made to apply to both categories in the

bill. This can easily be accomplished by inserting, after the word "means" in the current definition, the phrase "lands over which an Indian tribe exercises governmental powers and;" deleting the term "all lands" in the first category (§ 2703(4)(A)); deleting the term "any lands" in the second category (§ 2703(4)(B)); and inserting a period after the word "alienation" at the end of the second category.

AFTER ACQUIRED LAND

The attorneys general join the governors in expressing a concern over the current after-acquired land section. Under the current act, the governor of the state in which the gaming is to be conducted must concur in the Secretary's decision to allow gambling on after-acquired lands, *i.e.*, those lands acquired after the enactment of the Indian Gaming Regulatory Act of 1988. The bill requires the Secretary, in deciding whether to allow the land to be used for gambling purposes, only to review the recommendation of the governor of the state in which the gaming is to be conducted. The deletion of the governor's authority to concur was apparently occasioned by the opinion of the district court in *Confederated Tribes of Siletz Indians v. United States*, 841 F. Supp. 1479 (D. Or. 1994). In that case the district court held the current language unconstitutional as violating the Appointments Clause and separation of powers principles.

In my state this issue seems to be the issue of most concern for non-Indian citizens. It is the issue over which my office receives the most citizen inquiries dealing with Indian gaming. Many of these inquiries come from citizens who support Indian gaming on the reservations and other Indian owned land. However, these individuals view the ability of a tribe to acquire land in a wholly new location far from its reservation as an intrusion into the state's public policy. The lack of a consent by the state through its governor opens a door to wholesale gaming in a state which has made a conscious choice to limit the expansion of gaming such as Wisconsin.

I point out that this problem is not limited to states with Indian tribes. At a point several years ago, developers and entrepreneurs in the Chicago area proposed that a Wisconsin tribe acquire land in downtown Chicago for the purpose of establishing a gaming facility. The state of Illinois is a state without any Indian tribes and which consequently had no established policy concerning Indian gaming. While the state of Illinois eventually decided to modify its own public policy to allow casinos, the situation there was instructive. The after-acquired section in its current form could have allowed a trust decision on after-acquired land in a state without any Indian tribes and without the consent of the state through its governor. Thus, Illinois would have been required to negotiate an Indian gaming compact with a Wisconsin tribe without regard to Illinois' consent. We believe this is not good public policy and is certainly, as the governors have expressed, unacceptable to the states. While we disagree with *Siletz*, we have included

a specific proposal in the appendix to address the concerns raised in *Siletz* and allow state consent through the governor. The proposed language is based on the seventeenth clause of Art I., Section 8 of the Constitution and the fact that the Secretary must make an affirmative finding that the state has consented before he may exercise his discretion.

"GRANDFATHER CLAUSE"

The section defining that Class III gaming activities lawful at the time of enactment of this act are lawful for the purpose of determining the scope of gaming, is ambiguous, and invites the continuation of litigation where tribes are currently contesting states' interpretations of what state law presently provides. Rather than applying the new scope of gaming standards, this provision appears to propagate the previous problems associated with scope of gaming issues.

CHANGE IN STATE LAW

The bill does not address the effect of state law changes on existing compacts. The attorneys general believe the bill should make some provision for this possibility.

CONCLUSION

With the inclusion of the changes I have outlined, the National Association of Attorneys General will be able to endorse this bill. In closing let me again express my thanks and those of my colleagues for the Chairman's persistent leadership on this vital issue. We have come a long way in a year's time.

State Recommendations
Indian Gaming Regulatory Act Amendments Act of 1994

(References are to pages, lines and sections of S.2230 dated June 23, 1994)

Substantive Comments:

Scope of Gaming

Slot machines and gaming devices — 6:13-16 (Section 4(5)(B)(ii)); 7:20-24 (Section 4(11)); 11:14-12:4 (Section 4(26))

Subsection (B)(ii) excludes from the definition of Class II gaming all "gambling devices as defined in [15 U.S.C. 1171(a)(2) or (a)(3), the Johnson Act]" and "slot machines of any kind". By breaking up the provisions of section 1171(a), and providing an independent definition of slot machines from that used in the Johnson Act, the Amendments Act creates the possibility of inconsistent court decisions and extended litigation over the intent of the amendments. The states recommend that this section simply read: "gambling devices as defined in section 1(a) of the Act of January 2, 1951 (15 U.S.C. 1171(a)". That language would include all slot machines, as defined by the extensive litigation history of the Johnson Act.

The practical concern is with video analogues of slot machines. While they are usually considered as falling within the definition of section 1171(a)(2) of the Johnson Act, there is room for other arguments, and litigation over such issues could spill over into IGRA negotiations and litigation. If machines such as video poker, video keno or video pull-tabs could be asserted to be traditional section 1171(a)(1) slot machines in Johnson Act terms, then advocates of their expanded use could also assert that such devices fall outside the Amendments Act's limited definition of slot machines and thus are either unregulated or only covered as "other games of chance".

However, if the Amendments Act continues to separate gambling devices from slot machines, and subsection 1171(a)(1) from the other provisions of the Johnson Act, changes should be made to the definition of "slot machine" to avoid problems. As drafted, to be a slot machine, a device must have a system of generating "infinite random numbers" and must reward the operation of the device "solely on the basis of chance". "Infinite" and "solely" should be deleted. The problem with "infinite" is that any system with any limitation on its method of random number generation could be argued to be outside the Act's coverage. Thus, even a traditional slot machine with a reel or drum has a finite number of possible outcomes, since there is a finite number of symbols on the reel or drum. The problem with "solely" is that the addition of any element of choice in the playing of a gambling device, such as selecting which cards to retain in video poker, would likely result in a ruling that the machine did not rely solely upon chance. As noted, such changes would be unnecessary if the preferred recommendation concerning the original Johnson Act reference is adopted.

Definition of Slot Machine 88:8-16 (Section 10(a)(7)(D))

While the states recommend that slot machines be included within the definition of gambling devices, as outlined above, if the definition of "slot machine" remains separated from other Johnson Act gambling devices, it should be included in Section 10(a)(7)(D) as a major category of gaming. Otherwise, traditional slot machines would simply be lumped in with "other games of chance". Since slot machines are universally regarded as a major gambling device, they need to be specifically recognized as a distinguishable category for purposes of segregation from other categories.

Social Gaming Activity 12:5-21 (Section 4(27))

In the Amendments Act, social gaming is excluded from those activities which could trigger the possibility of Class III gaming by a tribe. The policy decision is sound: private gaming activity between individuals does not implicate society as a whole, or visibly affect a community's standards. The exclusion of social gaming from consideration in the act simply leaves individual activities outside of it, as not reflecting public policy toward gaming.

However, the definition of social gaming is limited to gaming which "is only played for nominal value". The size of the stakes in a private game is irrelevant to the issue of whether the gaming is public or private, and the reference to stake size should be deleted from the Amendments Act. Most states agree that "social" gaming which has a high degree of public involvement can be seen as reflecting public policy, and so have agreed to a definition which excludes gaming that is commercial, governmental, charitable or systematic, as well as gaming from which persons other than players make money, and also gaming conducted in clubs or other facilities primarily used for gaming. These definitions are adequate to cover the "public" aspects of such gaming; the addition of an irrelevant (and probably unenforceable) condition that the gaming also be of nominal value is inappropriate. The section should read "where such gaming activity is not conducted in places ordinarily and regularly used for gaming".

Categories of Gaming 87:5-8 (Section 10(a)(7)(C)(ii))

In their May submission, the states offered for committee consideration a process for state/tribal negotiations which postulated the following: (1) A tribe could request a compact from the Secretary; (2) the state could choose to enter negotiations over the gaming with the tribe; (3) if the state determined the requested gaming was prohibited by state law, it could notify the tribe that the activity was not subject to negotiations; (4) the tribe could challenge that determination in federal court; (5) the court would determine that the gaming activity was subject to negotiation even if it was prohibited by state law if (A) it was in the same category of gaming as an activity not prohibited by state law and (B) it met one of the following requirements -- its principal characteristics were not reasonably distinguishable from a legal gaming activity, or state law permitted the activity subject to regulations, or the gaming activity was permitted to some people in the state. (This summary of the process does not include all its nuances, but is simplified for easier understanding.)

The purpose of requiring that the gaming activity be in the same general category as an activity which is legal was to simplify the determination of which activities called for negotiations and to reduce unneeded litigation. All participants in the process benefit when the rules are clear, and everybody benefits when litigation is reduced.

The Amendments Act, however, dropped the requirement that a requested gaming activity be in the same category as one which was legal. It retained the state's recommended specification of gaming categories in Section 10(a)(7)(D), on page 88 at lines 8-16, but left the categories as orphans, without a clearly defined role to play in the process.

The states recommend restoration of the language requiring the minimal initial test that the requested activity be in the same general category as a legal activity, to clarify the rules of the compacting process and to reduce court battles over whether the "principal characteristics" of two entirely dissimilar activities are indistinguishable. Section 10(a)(7)(C)(ii)) would read: "(ii) even if the disputed gaming activity is prohibited by state criminal law or constitutional provision, the gaming activity is in the same category, as defined in section 10(a)(7)(D), as a gaming activity not prohibited by the state and meets one or more of the following criteria:".

"State Criminal Law" 11:8-11 (Section 4(24))
86:1-6 Section 10(a)(7)(B)(i))
87:3-4 (Section 10(a)(7)(C)(i))
87:9-15 (Section 10(a)(7)(C)(ii)(I))

The process jointly discussed by the tribal and state negotiators proposed that in case of disputes about what gaming was to be permitted to tribes, state law would first be examined to determine which activities were legal and which were not. In their May submission, the states proposed that a general reference to state law be used in that determination, and offered as a definition that: "The term 'prohibited by state law' means that an activity is barred by a state constitution, state criminal law or other provision of state law."

The Amendments Act instead uses a formulation discussed earlier by the negotiators, that reference be to "state criminal law" to determine legality. The states are concerned that this provision eliminates from consideration one of the most important sources of state law, the constitutions of the states. Several states have explicit constitutional formulations barring certain types of gaming; when they are self-executing, they have no need for criminal sanctions as a mode of enforcement, and so may not have been carried explicitly into the criminal law of those states.

The states recognize the importance of certainty, and can agree that resort to any body of state law, including regulatory provisions, need not be required by the Act; however, the states propose that in each case where "state criminal law" is used to determine the nature of a state's public policy, the phrase be amended to include "or constitutional provision". Such a minor change would ensure that the fundamental building blocks of state law, their constitutions, not be relegated to unimportance in the Amendments Act.

Jurisdiction over Indian lands

The Amendments Act inadvertently omitted the definitions of "Indian lands" and "Indian tribes". In their May submission, the states proposed that the definition of Indian lands be slightly modified to specify that it included: "Any lands within the limits of any Indian reservation title to which is held by the governing Tribe, by a member of that Tribe, or by the United States in trust for that Tribe or the member and over which that Tribe was exercising substantial governmental authority on the effective date of this Act".

The states continue to believe that such a provision is appropriate. Unless a tribe is presently exercising governmental authority over territory, there is no reason for IGRA or the Amendments Act to extend its authority to such land solely to govern gaming. Additionally, extension of such authority where it does not now exist would require a state to compact if it was to permit otherwise legal Class III gaming, such as a lottery, on such lands, even though a tribe has no governmental presence in those areas.

The concept of requiring that a tribe be exercising governmental authority over land would not be new to IGRA. The Amendments Act provides in section 10(a)(1)(A)(i), on page 79, that Class III gaming is lawful on Indian lands only if such activities are authorized by a compact that "is adopted by the governing body of the Indian tribe having jurisdiction over such lands". Effective jurisdiction, meaning the exercise of governmental authority, is a reasonable precondition which should exist before the compacting process and the regulatory machinery of the Department of the Interior and the National Indian Gaming Commission are brought into play.

Changes in state law

The IGRA contains no provisions concerning what happens when a state changes its laws expressly to outlaw a gaming activity, either to clarify an ambiguous situation or to ban an activity which had formerly been legal. In their May submission, the states proposed that explicit statutory recognition be provided for such situations, so that a state was capable of changing its fundamental public policy concerning gaming in general or with respect to particular gaming activities, and at the same time recognizing that tribes with compacts had investment expectations that should receive a degree of protection from sudden alteration.

The states continue to advocate inclusion of a change-of-law provision. Once a state has outlawed an activity, it should not be allowed to continue unaffected indefinitely on Indian lands without state consent. Senator Inouye has noted on several occasions that if a state does not want to have to let tribes engage in a gaming activity, the state need only prohibit the activity. The states proposed in May that gaming which had become illegal due to a change in state law, in situations where there was no specific compact provision concerning such a change, would terminate two years after notification by the state to the tribe of the change. The exact time frame within which the gaming would cease to be permitted is not so important as the principle that a change be recognized and that gaming which had become illegal come to an end.

In return, the states also offered language which would give a tribe the right to reopen negotiations in cases where a change in state law liberalized its gaming restrictions. At present, unless a compact has a clause concerning the subject, a tribe with a compact has no legal mechanism to force a state to reopen discussions. The states believe that the situation should be reciprocal and balanced; a significant change in a state's public policy should be taken into account in determining the scope of legal tribal gaming within a reasonable time, whether it is to permit or restrict gaming.

Retroactivity of the Amendments Act — 93:9-14 (Section 10(b))

This section provides "Class III gaming activities that are as a matter of Federal law, lawful in any jurisdiction on the date of enactment of the Indian Gaming Regulatory Act Amendments Act of 1994, shall notwithstanding any provisions of this Act, remain lawful for purposes of section 10". The states have no argument with the proposition that compacts in place when these amendments are adopted should remain in effect. However, this provision relating to non-retroactivity seems to have a broader meaning. By reference to "as a matter of Federal law" rather than to compacts, it appears to preserve all on-going claims that the states had hoped would be settled by these amendments.

The reference to "Federal law" as the source for determining what is left untouched by this Amendments Act is ripe with ambiguity. Lawsuits are pending in more than a dozen states asserting differing views of what is, and what is not, an authorized gaming activity under the IGRA. This language would arguably permit continuation of those suits to make a final determination as to what Federal law was under IGRA before these amendments, and would arguably then freeze such determinations into place.

But if the alternative interpretation were intended, so that existing decisions became fixed in time, pending appeals from lower court adjudications would be mooted, leaving a variety of disparate decisions untouchable now and into the indefinite future. Even differing district court decisions within the same circuit would become fixed, so that "Federal law" would vary according to geography.

The states suggest that this provision be limited to compacts in place. If that is not feasible, for reasons not apparent to the states, this section should be extensively reworked to specify its scope and meaning. The alternative is to undermine one of the basic motivating premises behind these amendments -- the reduction of endless, expensive and divisive litigation between tribes and states. Instead of achieving that goal, this provision threatens to make the situation worse rather than better.

"Grandfathering"

A very similar concern for states is that uncompacted Class III gaming, presently being conducted on several reservations under various claims of legitimacy, not be swept into legal status by any provisions of the Amendments Act. At present, except for the state concerns about

the "Effect of Amendments" section just discussed, there do not appear to be any provisions of the act which would have that potential. However, a significant element of the state support for the process which has brought us to this stage is that illegal, uncompacted gaming not be given Congressional blessing.

Regulatory Issues

In general, the states are supportive of the Committee's efforts to ensure the integrity of gaming on Indian lands. The experience of gaming states has taught the unmistakable lesson that constant vigilance is necessary. The attraction of large flows of cash to criminal elements is impossible to overstate. It casts no aspersion on Indian gaming to note that it can be as susceptible to predators as any other type of gaming.

However, there is one significant policy issue in this area in which the states are in full agreement with the tribes: where the states and the tribes are capable of providing adequate levels of regulation and licensing, meeting all requirements set by the Commission, they should be allowed to do so. The federal government should not take over any function which can be performed as well by Indian tribes and by states.

Licensing 25:7-27:7 (Section 7(b)(7))

Section 7(b)(7)(A) gives the Commission exclusive authority to license Class III gaming operations, key employees, persons having material involvement, gaming-related contractors, gaming service industries and any other person designated by the Commission. Section 7(b)(7)(B) gives the Commission exclusive authority to conduct background investigations on key employees, principal investors, principal gaming-related contractors and any other designated person or company.

The states believe that the structure of this section should be amended to match that of subsequent section 7(b)(8). Its provisions require that a tribe and a state agree on the monitoring and regulation of background investigations for the next level of employees, with the Commission assuming exclusive jurisdiction to do the task if the tribal/state agreement fails to meet the Commission's minimum standards.

The model is a good one, to be endorsed for the full regulatory scheme. If a state has a regulatory system in place, and the tribe and the state agree that it can do the job, the role of the Commission should be to ensure that the system works rather than to take onto itself the burden of doing the work. Many states would be reluctant to carry out regulatory functions where they have had no role in the licensing process; the two should be linked within the overall framework of the N.I.G.C's minimum standards.

The states also recommend that the Commission create a data bank, so that the results of all investigations, whether done by a tribe, a state or the Commission's staff, be available to others who need the information as part of their own background checks. Individuals and

companies move from place to place; the Commission should serve as a central repository of information to which everybody in the business can resort. It would also be possible for the Commission to create a system by which an entity licensed in one jurisdiction could be presumptively cleared for others, to reduce administrative burdens and expenses on entities seeking to do business in more than one jurisdiction.

Information Sharing 40:5-11 (Section 7(f)(2))

This provision states: "The Commission may secure from any law enforcement agency of any State or Indian tribal government information necessary to enable it to carry out this Act. Upon request of the Chairman, the head of any State or tribal law enforcement agency shall furnish such information to the Commission, unless otherwise prohibited by law." The states have a concern that although the motivation it a good one, this measure appears to commandeer state law enforcement into the service of the federal government, willing or not. There is no need to create Tenth Amendment issues in this portion of the Amendments Act the other portions of this Act have been so successful in reducing them. The states recommend language authorizing release of information, but not commanding it.

A similar provision should be added to the bill authorizing the Commission to release information to state and tribal governments to further the purposes of the Act, so that where a state or a tribe is conducting a background investigation or otherwise performing regulatory and enforcement functions it may have access to relevant information in the Commission's possession.

Existing Compacts 99:12-23 (Section 12(a)(2))

With respect to compacts in place when these amendments are adopted, the Amendments Act provides for Commission review for conformance with its regulatory and licensing requirements. The states support that concept; as was suggested by the states in their May submission to the committee, adherence to minimum standards set by the Commission will enhance the integrity of all Indian gaming, and will reassure the public that such gaming is well managed and free of corrupt influences.

This section commands the Commission to notify the tribe and State if the compact fails to meet those minimum requirements, and to take over responsibility for regulation and licensing "until such time as the Indian tribe or the Indian tribe and the State have developed regulations and licenses to govern the gaming activity which meet or exceed the requirements". The language leaves a troublesome gap as to where authority to fix the problem may lie. By giving that responsibility to either the tribe, or the tribe and the State, the Amendments Act seems to allow the tribe to choose unilaterally to develop regulations without state involvement. Since the section concerns state/tribal compacts, it should allow the Commission to return regulatory authority to the parties at such time as the tribe and the state mutually agree to and implement the necessary improvements. Otherwise, even though the parties might have agreed to, for example, a total allocation of licensing responsibilities to the state in their compact, the tribe

could override that agreement without state consent by enacting regulations giving it exclusive licensing jurisdiction.

The section should say: "until such time as the Indian tribe and the State have developed and incorporated into such compact regulations and licenses to govern the gaming activity which meet or exceed the requirements imposed by this Act and any regulations promulgated by the Commission." The suggested change calls for inclusion of the upgraded regulatory regime into the compact since they would necessarily amend an existing compact, and to ensure enforceability by the tribe and state under section 10(a)(7)(A)(ii) or by the Secretary under section 10(a)(7)(A)(iii).

Federal Cooperation

Finally, the states urge that the Commission be authorized to assist states and tribes in developing and improving their regulatory mechanisms and capacities. One technique would be the creation of a federal gaming academy in which state and tribal regulators could receive essential training to enable them to perform their functions with skill and knowledge. A single training agency, capable of drawing on both federal and state expertise in gaming regulation, would serve to keep both states and tribes abreast of the criminal elements seeking to infiltrate or otherwise subvert the integrity of Indian gaming. Another option would be authority for the Commission to give grants to tribes and states for the development of their regulatory systems, and for Commission-approved experiments at the local level with various approaches to controlling the risk associated with gaming.

Role of the States

During committee hearings on July 20, Chairman Inouye asked Governor Sullivan to comment upon the role he saw for the states to have when the state does not enter negotiations after a tribe requests the Secretary to negotiate a gaming compact. As the states read the Amendments Act, Section 10(a)(3)(C) provides a list of provisions which may be included in a compact negotiated between a tribe and the Secretary. Several of the provisions explicitly apply to the possibility of state involvement. For example, subsection (i) concerns "the application of the criminal and civil laws and regulations of the Indian tribe or the State that are directly related to, and necessary for, the licensing and regulation of such activity". Subsection (ii) concerns "the allocation of criminal and civil jurisdiction between the State and the Indian tribe necessary for the enforcement of such laws and regulations". Subsection (iii) concerns paying for such regulative activity. Subsection (vii) concerns: "any other subjects that are reasonably related to the operation of gaming activities, and the impact on tribal, State and local governments".

The states support the concept that the interrelationship between the tribe and the state, and any impact caused by gaming activities, be considered by the Secretary in the formulation of a compact. The Secretary could contact the State to ascertain whether it had any issues it wished to recommend for inclusion in the compact. While it would probably be unlikely that

a state which was uninterested in entering into compact negotiations would seek to involve its regulatory mechanisms with respect to proposed gaming, a state might urge the Secretary to provide for exchange of information or a cooperative law enforcement arrangement between the tribe and the state. With respect to impact, a state might ask the Secretary to consider whether a tribal gaming establishment would increase local expenditures for law enforcement, traffic control, highway improvements, water service, emergency medical response or other similar topics, and could seek cost recovery for such consequences.

In addition, Section 10(a)(3)(A)(ii) requires that the Secretary determine if gaming activities requested by a tribe should be included in the compact, and that the determination be made based upon an analysis of state law. The Governors and Attorneys General of the states would be appropriate parties for the Secretary to consult in making the determination of what gaming is appropriate for negotiation. Such consultation would reduce the likelihood of litigation under Section 10(a)(7)(A)(i) to review a decision by the Secretary with regard to the gaming activities subject to inclusion in a compact.

The fact that a state might choose not to be a contracting party in a gaming compact does not imply a lack of interest in the effects which could occur from a compact. The Amendments Act allows, and appears to encourage, the Secretary to consider what may happen, and the states are supportive of that approach.

Eleventh Amendment — 82:21-83:2 (Section 10(a)(3)(B)(iv))

The Amendments Act provides that a request by a state to negotiate "shall be deemed to constitute a voluntary waiver of the sovereign immunity of the State for the purposes of this Act". The states suggest instead that an assertion of sovereign immunity by a state at any point during litigation terminate state involvement in the negotiation of a compact and return the process to the Secretary to complete negotiations with the tribe.

There are two reasons for this recommendation. First, several states have legal or constitutional provisions which prevent them from voluntarily waiving their sovereign immunity. There is no benefit in having the Amendments Act set up a legal confrontation between a federal enactment and such state provisions. Second, several states adhere to the position that Congress has no power to enforce a mandatory waiver of a state's sovereign immunity under the Eleventh Amendment. A provision such as in the Amendments Act is certain to be the subject of litigation at some point. Rather than creating such a confrontation, the committee should look for alternatives.

The superior alternative is one which simply terminates state participation in the negotiation process and ends pending litigation. Moving the negotiations to the Secretary if a state feels compelled to assert the Eleventh Amendment avoids constitutional litigation, speeds up the process and should fully meet the desires of an affected tribe to complete the compacting process.

Possible language to achieve this purpose would be: "(iv) If a State asserts sovereign immunity in any litigation pending under subsection (7)(A) of this section, the right of the State to enter into negotiations under this paragraph shall be deemed to have been voluntarily waived."

Settlement Acts

The concerns of the Settlement Act states about the impact of the Indian Gaming Regulatory Act upon their jurisdictions remain, as was demonstrated by the testimony given the Committee last week. The affected states are continuing their discussions in the hope of being able to present the Committee with a mutually satisfactory solution within the time frame the Committee has requested.

After-acquired Lands 107:16-24 (Section 17(b)(1)

The Amendments Act proposal is a radical departure from the existing structure of the Indian Gaming Regulatory Act, and as drafted is a serious concern for the states. The compromise which led to passage of the Act in 1988 included as a key element the commitment from Congress that lands acquired after passage of the Act could not be used for gaming without the express agreement of the Governor of the affected state. The states were firm in the position that permitting a tribe to acquire land in areas distant from its reservation, even in the major urban areas of its state, without state concurrence and approval, would change the dynamics of gaming and the social fabric of a state to an entirely unacceptable degree.

The states firmly believe that the Act as it presently exists needs no change. Many states are joining with the Department of Justice in the pending Ninth Circuit Court of Appeals case in making that argument. The states expect success in that case, and do not feel the need to change the Act-unless the ultimate outcome of that litigation should be to alter the expectation of those who agreed to the provision in 1988.

But if the Committee feels it necessary to change to Act because of the lower court decision in an Oregon District Court, the states continue to suggest that the preferred alternative is that submitted to the Committee in May. After careful review and analysis, the states continue to believe that it satisfies all constitutional issues raised concerning the process by which the final Secretary's decision would be made. By having the Governor make a final determination before the Secretary has any issue to consider, the concept that the Governor is exercising a veto over the Secretary's discretion is entirely avoided. The text of that proposal was as follows:

(1) the Governor of the State in which the gaming activity is to be conducted determines that a gaming establishment on newly acquired lands would be in the best interest of the Indian Tribe and its members, and would not be detrimental to the surrounding community, and the Secretary, after consultation with the Indian Tribe and appropriate State and local officials, including officials of other nearby Indian Tribes, concurs in the Governor's determination; or . . .

The states also suggest that there are other alternatives which are fully constitutional. One, suggested by the Governor of Oregon, limits gaming on after-acquired lands to compact entered into voluntarily by the state, without help from a mediator or arbitrator, or by the Secretary after the state declines to participate. If this alternative were adopted, it would also follow that the tribal notification section (Section 10(a)(3)(A)(ii) should be amended to include a requirement that the site of proposed gaming be specified, and to limit any compact resulting from that notification to the place named in the notification. The text is as follows:

> (1) the Secretary, after consultation with the Indian tribe and a review of the recommendations, if any, of the Governor of the State in which such lands are located, and any other State and local officials, including officials of other Indian tribes or adjacent States, determines that a gaming establishment would be in the best interest of the Indian tribe and its members, and would not be detrimental to the surrounding community, and the Secretary has approved a compact authorizing Class III gaming on such lands under subparagraphs 10((a)(3)(A)(iv) or 10(a)(8)(D) of this Act; or . . .
>
> . . .
>
> (4) For purposes of paragraph (1) of this subsection, the provisions of subparagraphs 10(a)(7)(F) through (J) of this Act do not apply to the negotiation of a compact for Class III gaming on lands acquired by the Secretary in trust for the benefit of an Indian tribe after the date of enactment of this Act.

Finally, an alternative suggested by Wisconsin would treat the consent of the Governor as one of several preconditions which the Secretary must find to exist prior to the exercise of discretion. The text of that proposal is as follows:

> (a) Prohibitions on lands acquired after October 17, 1988
>
> Except as provided in subsection (b) of this section . . . conducted on lands acquired by the Secretary in trust for the benefit of an Indian tribe after October 17, 1988, shall be subject to State enforcement of all State laws pertaining to the licensing, regulation, or prohibition of gambling, including but not limited to criminal sanctions applicable thereto, unless
>
> . . .
>
> (b) Exceptions
>
> (1) The Secretary may grant an exception to subsection (a) of this section only if
>
> (A) The Secretary finds all of the following --

(i) after consultation with the Indian tribe and appropriate State and local officials, including officials of other nearby Indian tribes, that the proposed gaming establishment on the newly acquired lands would be in the best interest of the Indian tribe;

(ii) after consultation with the Indian tribe and appropriate State and local officials, including officials of other nearby Indian tribes, that the gaming establishment would not be detrimental to the surrounding community; and

(iii) the Governor in the State in which the gaming activity is to be conducted consents to the application of this chapter on the newly acquired land; or . . .

Technical comments:

Banking Game 4:17-21 (Section 4(2))

The use of "participant" in defining a banking game creates a degree of confusion because the same term is used in a different sense in the definition of "social gaming", in Section 4(27). Additionally, making a game a banking game only when the house takes on all players, collects from all losers, and pays all winners would allow evasion of the definition by minor changes in the rules. The states recommend that the definition be changed as follows: "The term 'banking game' means any game of chance that is played with the house collecting from losers and paying winners and where the house is not otherwise a player in the gaming".

Class II Gaming 5:5-21 (Section 4(5)(A)(i))

The definition of "bingo or lotto" in the present IGRA specifies a game "which is played for prizes . . . with cards bearing numbers or other definitions". The omission of that language from the Amendments Act is reasonable, but was not done consistently through the definition. As a result, subsection (i)(II) says "in which the holder of the card covers such numbers" and subsection (i)(III) says "won by the first person covering . . . numbers . . . on such cards". The simplest remedy is to reinsert the original language into the amendments.

Gambling Devices 6:13-16 (Section 4(5)(B)(iii))
7:20-24 (Section 4(11))

The definition of Class II gaming excludes "gambling devices as defined in section 1(a)(2) or section 1(a)(3) of the Act of January 2, 1951 (15 U.S.C. 1171(a) (2) or (3))". The text following "gambling devices" is not needed, as Section 4(11) defines "gambling devices" using the same reference.

The definition of devices excluded from Class II gaming also specifies "slot machines of any kind". The modifier "of any kind" is ambiguous, and is not consistent with the explicit definition of "slot machine" contained in Section 4(26).

Compact 6:23-7:5 (Section 4(8))

The definition of "compact" includes the requirement that it have been "published pursuant to section 10 of this Act". That would exclude compacts entered into by states and tribes prior to the effective date of the enactment of these amendments. The section should be expanded to include compacts published prior to that effective date.

In addition, the definition should be expanded slightly to include "and are in effect" to avoid coverage of compacts which have expired under their own terms. While not a current problem, compacts with built-in time limits will expire over the years, and should not be referenced by the definition. In addition, such a change will eliminate the need for use of the phrase "is in effect" in areas such as page 84, line 20 (Section 10((a)(5)). Language of the sort the states recommend can be found in Section 10(a)(6), on page 85, lines 5-8.

Facsimile 7:16-19 (Section 4(10))

The definition of "electronic or electromechanical facsimile" now appears meaningless, since its definition as a Johnson Act 1171(a)(2) or (a)(3) device lacks any context. The states had recommended that the definition refer to those subsections and add "which replicates the theme of a Class II game" to provide greater information. The only place it is referenced in these amendments is in the definition of gambling device (Section 4(11)), where it is listed as included among gambling devices. That definition alone should suffice.

Slot Machine 11:14-12:4 (Section 4(26))

The definition of "slot machine" uses the phrase "gaming device" in two places, rather than "gambling device" as is used in Section 4(11) to define other devices made illegal by the Johnson Act. The states are uncertain whether this is intentional or inadvertent. More consistent would be use of the definition: "any gambling device as defined in section 1(a)(1) of the Act of January 2, 1951 (15 U.S.C. 1171(a)(1)".

Social Gaming 12:5-21 (Section 4(27))

The definition of social gaming begins: "the term 'social gaming activity' means a gaming activity which is not" several specified activities. The phrase "which is not" should be moved out of the headnote and into subsection (27)(A), which would then read: "(A) which is not a commercial, governmental, charitable or systematic gaming enterprise". Leaving the phrase "which is not" in the introductory portion would result in several double negatives and make interpretation of its intended meaning very difficult.

In subsection (B), social gaming is defined as a gaming activity "where no person, organization or entity other than the participants obtains or receives money or something of more than minimal value from the gaming activity, whether by taking a percentage of wagers or winnings or by banking the game". The states recognize that this definition was taken from the state submission in May. Nevertheless, subsequent review of it has convinced us that the phrase "whether by taking a percentage of wagers or winnings or by banking the game" should be removed. While it was intended as illustrative, it could be construed to modify or constrict the meaning of the preceding phrases.

Hearings — 20:6-8 (Section 7(a)(16))

This provision would authorize the Commission to "conduct all hearings pertaining to civil violations of this Act or regulations promulgated thereunder". This presumably was intended to apply only to administrative hearings, and not to be a limitation on federal court jurisdiction otherwise specified in the Act. A clarification would be to cross-reference page 36, line 19 (Section 7(d)), "Hearings".

Commission Role — 24:6-18 (Section 7(b)(5)(D)); 24:24-25:9 (Section 7(b)(6)(B)); 27:24-28:10 (Section 7(b)(8)(B)); 29:3-13 (Section 7(b)(9)(B)); 29:19-30:2 (Section 7(b)(10)(B))

These provisions, giving the Commission jurisdiction over background investigations for Class II gaming, internal control systems for Class II gaming, high-level background investigations for Class III gaming, lower-level background investigations for Class III gaming and internal control systems for Class III gaming are each structured similarly. The measures state that except where the procedures fail to meet the minimum standards set by the Commission, the Commission's authority to conduct those activities is exclusive until such time as the Commission determines that the locally established systems meet the Commission's minimum regulatory requirements. Grammatically, there is no need in any of these provisions for the introductory statement using the phrase "except where". In each case, the remainder of the sentence, standing alone, gives the Commission exclusive jurisdiction until it certifies that an adequate local structure exists.

In Section 7(b)(6)(B), from page 24:24 to 25:9, this provision should reference "a tribal Class II gaming operation" for consistency with other parallel sections (see the listing above).

Gaming Service Industries — 26:3-14 (Section 7(b)(7)(A)(v))

The definition of "gaming service industries" used in this subsection differs in minor respects from that in Section 4(15) (page 8, line 18 to page 9, line 2). It would be more consistent and create less potential problems to cross-reference the definition than to specify the types of activities to be covered by this subsection.

Principal Investors 27:8-10 (Section 7(b)(7)(C))

The text of this subsection appears to be incomplete; its meaning cannot be determined from the present language.

Key Employees 30:3-20 (Section 7(c))

Sections 7(b)(5) and 7(b)(7) authorize the Commission to monitor and regulate licensing of several categories of people in gaming activities, including key employees for Class II and Class III gaming. Section 7(c) lists the people for whom a license is mandatory, but in the list key employees are not mentioned. Since all other critical categories of people in gaming activities are listed, it appears the omission may be inadvertent.

Licensees 43:20-25 (Section 8(a)(1)(B))

This section says that the terms applicant and licensee "shall include any person, any entity, and corporation, any company or any other organization for whom the Commission requires an approved license". The definition of "person" in Section 4(22) is quite extensive, and overlaps the definition in this provision. The section should be sufficient by saying "any person for whom the Commission requires an approved license".

Employee Obligation 45:13-17 (Section 8(a)(7)(A))

This provision requires all "applicants and licensees and all persons employed by a gaming service industry licensed pursuant to this Act" to inform the Commission of acts constituting a violation of IGRA. The states suggest that all persons employed by a gaming related contractor licensed pursuant to this Act be included as well.

Registration 67:10-11 (Section 8(f))

The headnote of this provision reads "Licensing and Registration of Gaming-Related Contractors and Service Industries". However, there is no further discussion of registration. The title could be simplified to "Licensing of Gaming-Related Contractors", etc.

Class III Gaming 79:7-8 (Section 10(a)(1)(A)(ii))

This provision reads "meets the requirements of subsection (b) of this section, and". While taken from the existing Act, the new structure has outmoded it. Subsection (b) is now a grandfather clause with no requirements. The subsection can be omitted.

Person 87:18-88:7 (Section 10(a)(7)(C)(i)(III))

The use of "person, organization or entity" is inconsistent with the broad definition of "person" in Section 4(22) on page 10. line 22-25. In order to ensure that tribes have the right

to negotiate gaming which is permitted to others in the state, the broader definition as used in the definitional section should be used; in other words, "person" will suffice.

Tolling — 88:17-22 (Section 10(a)(7)(E))

This subsection, regarding the time frame for negotiations, should be made consistent with the next paragraph, Section 10(a)(7)(F), and read: "Where the State elects to negotiate a compact under this Act, the negotiation shall be completed within 120 days after the expiration of the 60-day period in paragraph (3)(B)(iii) of this subsection or a final declaratory judgment not subject to further review, unless the State and Indian tribe by mutual agreement extend the time period".

Consistent with this Act — 90:9-21 (Section 10(a)(7)(G)); 91:17-92:2 (Section 10(a)(7)(I))

The first of these provision requires that a compact recommended by a mediator or arbitrator "be consistent with this Act and the regulations promulgated by the Commission, including, without limitation, provisions relating to cash flow transactions, recordkeeping and reporting, accounting, security, licensing and training of employees, and related matters". The second of these provisions provides that in case of a Secretary's inaction, the compact is considered approved "but only to the extent that the compact is consistent with the provisions of this Act and any regulations promulgated by the Commission". The two sections should be consistent; the second is the simpler and easier to follow, since the specifications of the first are only illustrative.

Secretary — 91:17-92:2 (Section 10(a)(7)(I))

This measure concerns Secretarial failure to act in a timely manner when negotiations are being conducted between a tribe and the Secretary after a State declines to enter into the process. If the Secretary has not acted "after the expiration of the 180-day period with respect to the last compact proposal", the contract is considered approved. This provision does not appear workable. The tribal-Secretary process is not specified in the Amendments Act, and there is no structuring of proposals and counter-proposals; for that reason, there is no definition of what "the last compact proposal" refers to. The structure outlined in this paragraph would permit submission by a tribe of a proposal just before midnight on the 180th day to be "the last compact proposal" and require its adoption by the Secretary except to the extent it deviated from the law or the Commission's regulations, even if in scope, location and other provisions it differed totally from any earlier proposal. That portion of the sentence should be deleted; other mechanisms can be invented to prod the Secretary to act.

Secretarial Approval — 92:7-93:8 (Section 10(a)(8))

This section concerns Secretarial approval of compacts entered into between states and tribes. However, it does not appear to be required. Section 10(a)(7)(G) specifies the process

for compacts recommended to the Secretary by "the parties or the mediator or arbitrator". Since it appears that section (a)(7) covers party-recommended compacts, a specific section devoted to them looks to be unnecessary.

Lands in Trust 106:16-20 (Section 17(a))

The paragraph provides that "gaming regulated by this Act shall not be conducted on lands acquired by the Secretary in trust for the benefit of an Indian tribe after the date of enactment of this Act unless" . . . . The reference should be to the date of enactment of IGRA, rather than to this, the Amendments Act of 1994. Otherwise, all lands acquired by the Secretary in trust since October, 1988, would be exempt from the requirements of the section.

JOHN J. LAFALCE, NEW YORK
CHAIRMAN

JAN MEYERS, KANSAS

Congress of the United States

House of Representatives

103d Congress

Committee on Small Business

2361 Rayburn House Office Building

Washington, DC 20515-6315

November 28, 1994

BY FACSIMILE AND PERSONAL MAIL

Mr. Ray Scheppach
National Governors' Association
444 North Capitol Street, Suite 267
Washington, DC 20001-1572

Dear Mr. Scheppach:

As you know by now, the hearing of the Small Business Committee scheduled for Monday, November 28, has been canceled. As I continue to explore the issue of Indian gaming outside of the hearing forum, I am writing to request that you submit a statement to the Small Business Committee, along with relevant documents, outlining your organization's perspective and concerns related to this important issue.

As in our September 21 hearing on casino gambling, I am interested in exploring both the impact of casinos--on small businesses, communities, and the nation as a whole--and the regulatory structure that seeks to control the more harmful aspects of gambling. I would be most interested in hearing the National Governors' Association's perspective on the regulatory issues that have arisen since enactment of the Indian Gaming Regulatory Act, as well as your members' viewpoint on the impact of the casinos on communities and businesses in their states.

As you well know, gambling is a unique recreational activity that brings with it costs and benefits not associated with other forms of entertainment. My overriding concern is that all parties responsible for the regulation of gambling are sensitive and responsive to the costs of gambling, in social and economic terms. To this end, I would like to collect and disseminate as much quality information, research, and advice on this issue as possible. I hope you will be able to help me in this effort.

Please send your statement addressed to me at the Committee by Friday, December 2. If you have questions or will not be able to submit a statement, please contact Mr. Scott Morris at the Committee. Thank you.

Sincerely,

JOHN J. LaFALCE
Chairman

JJL:sm

NATIONAL GOVERNORS' ASSOCIATION

Howard Dean, M.D.
Governor of Vermont
Chair

Tommy G. Thompson
Governor of Wisconsin
Vice Chair

Raymond C. Scheppach
Executive Director

Hall of the States
444 North Capitol Street
Washington, D.C. 20001-1512
Telephone (202) 624-5300

December 2, 1994

The Honorable John J. LaFalce
Chairman
Committee on Small Business
U.S. House of Representatives
2361 Rayburn House Office Building
Washington, DC 20515-6315

Dear Mr. Chairman:

I write in response to your November 28 letter requesting the National Governors' Association's perspective on the regulatory issues that have arisen since the enactment of the Indian Gaming Regulatory Act (IGRA) and on the impact of tribal casinos on communities and businesses in the states. Working closely with Attorneys General, Governors participated in a series of negotiations with Indian tribal governments in an effort to clarify IGRA. These negotiations were conducted under the sponsorship of Senator Daniel K. Inouye (D-Hawaii) and Senator John McCain (R-Arizona), chair and vice chair respectively of the Senate Committee on Indian Affairs.

The Governors' major objective in this process was to promote uniform implementation of IGRA across the nation. As you may know, these negotiations did not resolve the conflicts involved.

The Governors remain committed to resolving the conflicts arising out of IGRA implementation. I have attached Wyoming Governor Mike Sullivan's testimony from a hearing on Senator Inouye and Senator McCain's original bill, S. 2230, for your information. This testimony highlights the Governors' concerns with the current act and with the first Inouye-McCain bill. Also, I enclose a letter from Governor Sullivan in response to the revised version of S. 2230, released by the committee after the hearings this past July.

I hope that you will find this information helpful. If I can be of further assistance, please do not hesitate to contact me.

Sincerely,

Raymond C. Scheppach

Enclosures

T E S T I M O N Y

Statement of The Honorable Mike Sullivan
Governor of Wyoming

before the

Committee on Indian Affairs

United States Senate

on

State Perspectives on the Indian Gaming Regulatory Act Amendments Act of 1994

July 19, 1994

NATIONAL GOVERNORS' ASSOCIATION
Hall of the States • 444 North Capitol Street • Washington, DC 20001-1572 • (202) 624-5300

GOOD AFTERNOON MR. CHAIRMAN AND MEMBERS OF THE COMMITTEE. I APPRECIATE THE OPPORTUNITY TO APPEAR BEFORE YOU TODAY ON BEHALF OF THE NATION'S GOVERNORS TO DISCUSS STATE PERSPECTIVES ON THE INDIAN GAMING REGULATORY ACT AMENDMENTS ACT OF 1994, RECENTLY INTRODUCED BY SENATOR DANIEL K. INOUYE AND SENATOR JOHN MCCAIN.

IN THIS STATEMENT, I WOULD LIKE TO COMMENT ON THE INOUYE-MCCAIN BILL AND FOCUS ON FOUR ISSUES OF CRITICAL IMPORTANCE TO THE GOVERNORS:

- THE SCOPE OF GAMING;
- AFTER-ACQUIRED LANDS;
- SETTLEMENT ACT JURISDICTION; AND
- REGULATION OF INDIAN GAMING.

I SIT HERE TODAY AS THE NATIONAL GOVERNORS' ASSOCIATION'S DESIGNATED LEAD ON CLARIFYING THE INDIAN GAMING REGULATORY ACT OF 1988, ALSO KNOWN AS IGRA. I MUST BEGIN MY REMARKS BY REAFFIRMING THE GOVERNORS' SUPPORT OF INDIAN TRIBAL ECONOMIC DEVELOPMENT, SELF-SUFFICIENCY, AND SOVEREIGNTY. WE CANNOT ALLOW THE DIFFERENCES BETWEEN STATES AND TRIBES OVER THE INTERPRETATION OF IGRA TO OVERSHADOW THIS FACT. IMPROVING

GOVERNMENT-TO-GOVERNMENT RELATIONSHIPS WITH INDIAN TRIBES IS A PRIORITY FOR GOVERNORS. OUR ULTIMATE OBJECTIVE IN SEEKING CLARIFYING AMENDMENTS TO IGRA IS TO REDUCE THE AMOUNT OF LITIGATION THAT PLAGUES THE IMPLEMENTATION OF THIS ACT AND CONTINUES TO DRIVE A WEDGE BETWEEN STATE AND TRIBAL GOVERNMENTS.

CHAIRMAN INOUYE, SENATOR MCCAIN, I WANT TO COMPLIMENT YOU AGAIN FOR THE TREMENDOUS EFFORT YOU HAVE INVESTED IN RESOLVING THE CONFLICTS ARISING OUT OF THE IMPLEMENTATION OF IGRA, AS WELL AS COMPLIMENT YOU ON CRAFTING A BILL THAT I HOPE WILL EVENTUALLY LEAD US TO THIS OBJECTIVE. YOUR BILL RECOGNIZES AND ADDRESSES MANY OF THE CONCERNS OF BOTH STATE AND TRIBAL GOVERNMENTS. I BELIEVE WE HAVE POSITIVE MOMENTUM AND BY CONTINUING TO WORK TOGETHER WE CAN AGREE ON AN OVERALL BILL. BUT I NEED TO SAY, I DO NOT THINK WE ARE THERE YET.

BEFORE I COMMENT ON THE SPECIFIC PROVISIONS OF THE INOUYE-MCCAIN BILL, LET ME AGAIN REMIND THE COMMITTEE THAT THE GOVERNORS ORIGINALLY CAME TO THE TABLE WITH A NUMBER OF CONCERNS ARISING OUT OF THE IMPLEMENTATION OF IGRA. THE GOVERNORS BELIEVE THAT CLARIFICATION OF THE LAW WILL REDUCE THE COSTLY AND DIVISIVE LITIGATION OVER THE AMBIGUITIES

CONTAINED IN IGRA; IN ADDITION, WHEN THERE IS LITIGATION, THIS CLARIFICATION WILL GUIDE THE COURTS' UNIFORM APPLICATION OF THE LAW ACROSS THE STATES. TO ACHIEVE THIS GOAL, WE HAVE SOUGHT CLARIFICATION OF A NUMBER OF IGRA PROVISIONS, THE MOST IMPORTANT OF WHICH DEALS WITH THE SCOPE OF GAMING. MOREOVER, THE STATES HAVE ASKED CONGRESS TO KEEP THE COMMITMENTS IT MADE IN THE CURRENT ACT -- TO RECOGNIZE THE VIABILITY OF EXISTING SETTLEMENT ACTS AND TO CONFIRM THE GOVERNOR'S ROLE IN THE SECRETARY OF INTERIOR'S DECISIONS TO ACQUIRE LAND IN TRUST FOR A TRIBE FOR THE PURPOSES OF GAMING.

THE GOVERNORS AGREED TO WORK WITH TRIBAL GOVERNMENTS THROUGH A NEGOTIATION PROCESS SPONSORED BY SENATOR INOUYE AND SENATOR MCCAIN AND HAVE WORKED CLOSELY WITH THE ATTORNEYS GENERAL THROUGHOUT THIS PROCESS. BOTH STATES AND TRIBES HAVE A GREAT DEAL INVESTED IN THIS PROCESS, BUT AS YOU KNOW, FELL SHORT OF ACHIEVING A JOINT RESOLUTION. ALTHOUGH THE STATE-TRIBAL WORKING GROUP NEVER REACHED AGREEMENT ON A PACKAGE OF AMENDMENTS, A FRAMEWORK FOR A POTENTIAL COMPROMISE BEGAN TO EMERGE OUT OF THEIR DISCUSSIONS. I THINK SENATOR INOUYE AND SENATOR MCCAIN CAPTURED THE ESSENCE OF THIS POTENTIAL FOR COMPROMISE IN THEIR BILL.

THE INOUYE-MCCAIN AMENDMENTS

REASONABLE SOLUTIONS TO COMPLEX AND DIVISIVE ISSUES, BY THEIR VERY NATURE, ASSUME THAT THE PARTICIPANTS WILL MAKE CONCESSIONS IN ORDER TO ARRIVE AT AGREEMENTS. IN THIS SPIRIT, STATES HAVE EXPRESSED A WILLINGNESS TO MOVE SIGNIFICANTLY FOR THE SAKE OF CONSENSUS, POTENTIALLY GIVING UP A GREAT DEAL IN THE PROCESS. THE INOUYE-MCCAIN AMENDMENTS WOULD ASK THE STATES TO CONCEDE THEIR TENTH AND ELEVENTH AMENDMENT DEFENSES, A REQUEST THAT STATES WOULD CONSIDER TO BE A SIGNIFICANT COMPROMISE OF THEIR OWN SOVEREIGNTY.

THE INOUYE-MCCAIN AMENDMENTS APPEAR DESIGNED TO GIVE THE STATES AND TRIBES WHAT THEY EACH WANT MOST. FOR THE TRIBES, THE BENEFIT WOULD BE AN EXPEDITED COMPACTING PROCESS THROUGH WHICH TRIBAL GOVERNMENTS COULD ACHIEVE A CLASS III GAMING COMPACT WITHIN A REASONABLE TIME FRAME, WITH AN ALTERNATIVE FORM OF RELIEF FOR TRIBES THAT ARE UNABLE TO ACHIEVE A COMPACT THROUGH NEGOTIATIONS WITH A STATE. FOR THE STATES, THE BENEFIT WOULD BE THE DEFINITION OF WHICH GAMING ACTIVITIES WOULD BE SUBJECT TO NEGOTIATION -- EFFECTIVELY ESTABLISHING A THRESHOLD, BASED IN STATE LAW, BEYOND WHICH FEDERAL LAW WOULD NOT FORCE

A GOVERNOR TO NEGOTIATE. IN ORDER FOR THE GOVERNORS TO AGREE TO SUCH A COMPROMISE, THEY MUST BE CERTAIN THAT THEIR END OF THE BARGAIN HAS BEEN FULFILLED; IN EFFECT, THAT THE SCOPE OF GAMING UNDER THE AMENDMENTS IS CLEAR.

THE FOUR CRITICAL ISSUES IN THE CURRENT DRAFT OF THE BILL THAT MUST BE ADDRESSED BEFORE THE GOVERNORS WOULD BE WILLING TO CONSIDER SUPPORT FOR THIS PROPOSED COMPROMISE.

- THE SCOPE OF GAMING;
- AFTER-ACQUIRED LANDS;
- SETTLEMENT ACT JURISDICTION; AND
- REGULATION OF INDIAN GAMING.

SCOPE OF GAMING

FIRST OF ALL, WE OBJECT TO THE "NOMINAL" VALUE LIMITATION CONTAINED IN THE SOCIAL GAMING DEFINITION. WE CANNOT POSSIBLY ENFORCE THIS, AND IT DEFEATS THE PURPOSE OF THE EXCEPTION. IN ADDITION, TECHNICAL DEFICIENCIES APPEAR WITH RESPECT TO THE DEFINITION OF VIDEO GAMING DEVICES, CREATING UNCERTAINTY AS TO WHETHER VIDEO PULL-TABS AND VIDEO POKER DEVICES WOULD REMAIN CLASS III. THESE WERE CLEARLY DEFINED AS CLASS III DEVICES UNDER THE JOINT NATIONAL GOVERNORS' ASSOCIATION/NATIONAL ASSOCIATION OF ATTORNEYS GENERAL (NGA/NAAG) PROPOSED

AMENDMENTS, ATTACHED TO MY MAY 17 TESTIMONY. FURTHERMORE, UNDER THE INOUYE-MCCAIN AMENDMENTS, THE LINES BETWEEN DIFFERENT CATEGORIES OF GAMING ACTIVITIES AND DEVICES HAVE BEEN BLURRED. UNDER THE JOINT NGA/NAAG PROPOSED AMENDMENTS, CLEAR DISTINCTIONS BETWEEN CERTAIN CATEGORIES OF GAMING ACTIVITIES WERE CLEAR.

AFTER -ACQUIRED LANDS

BASED ON MY RECOLLECTION, MR. CHAIRMAN, THE MAJOR REASON THIS ISSUE WAS NEVER PART OF OUR DISCUSSION WAS THAT YOU SAID THERE WAS NO AMBIGUITY IN THIS SECTION OF THE ACT AND, THEREFORE, NO NEED TO AMEND IT. AS YOU MAY KNOW, THE FEDERAL DISTRICT COURT DECISION IN OREGON CONFIRMED THE STATES' FEAR THAT THIS SECTION WOULD BE FOUND UNCONSTITUTIONAL. THE PROPOSED AMENDMENTS REDUCE THE GOVERNORS' ROLE TO MERELY THAT OF CONSULTANT AND WOULD BE AN UNACCEPTABLE FEDERAL INTRUSION INTO A FUNDAMENTAL STATE PUBLIC POLICY DECISION.

I HAVE CONFERRED WITH GOVERNOR BARBARA ROBERTS OF OREGON, WHO ALSO HAS SUBMITTED A LETTER TO SENATOR INOUYE EXPRESSING HER THOUGHTS ON THIS ISSUE. SHE HAS SUGGESTED AMENDING THIS SECTION SO THAT LAND COULD BE ACQUIRED IN TRUST FOR THE PURPOSES OF GAMING ONLY IN A CASE WHERE THE STATE AND TRIBE

HAVE VOLUNTARILY NEGOTIATED A COMPACT. WE ARE REFINING OUR PROPOSAL AND WILL SUBMIT IT TO YOU SHORTLY. BE AWARE THAT THE GOVERNORS SUPPORT GOVERNOR ROBERTS' DEMAND THAT YOU RESTORE A MEANINGFUL ROLE FOR GOVERNORS IN THIS DECISIONMAKING PROCESS.

SETTLEMENT ACT JURISDICTION

ONCE AGAIN, I WILL DEFER TO MY COLLEAGUE, GOVERNOR BRUCE SUNDLUN OF RHODE ISLAND, TO ADDRESS THE ISSUE OF EXISTING SETTLEMENT ACTS. I DO HOWEVER WANT TO NOTE THAT THE GOVERNORS SUPPORT THE EFFORTS OF GOVERNOR SUNDLUN AND OTHERS TO ENSURE THAT AMENDMENTS TO IGRA RECOGNIZE THESE AGREEMENTS.

REGULATION OF INDIAN GAMING

ALTHOUGH THE GOVERNORS DO NOT HAVE POLICY ON THE EXPANSION OF THE NATIONAL INDIAN GAMING COMMISSION'S (NIGC) REGULATORY AUTHORITY, I DO KNOW THAT SOME STATES ALREADY PERFORM THE REGULATORY FUNCTIONS THAT, UNDER THE AMENDMENTS, WILL COME UNDER THE EXCLUSIVE JURISDICTION OF NIGC. IT IS LIKELY THAT THESE STATES WOULD AT LEAST WANT THE OPTION OF CONTINUING TO EXERCISE THIS REGULATORY AUTHORITY. I WOULD URGE YOU TO CONSIDER CHANGES TO THE BILL THAT WOULD GIVE STATES THE OPTION

TO PERFORM ALL REGULATORY FUNCTIONS AS LONG AS THEY DO SO WITHIN MINIMUM STANDARDS LAID OUT BY NIGC. IF A STATE WERE UNABLE OR UNWILLING TO FULFILL THESE REGULATORY RESPONSIBILITIES, IT MAY BE APPROPRIATE FOR NIGC TO STEP INTO SUCH A VOID.

THE GOVERNORS ARE COORDINATING WITH THE ATTORNEYS GENERAL AND WILL SUBMIT JOINT AMENDMENTS TO THE INOUYE-MCCAIN BILL SHORTLY. NGA AND NAAG ARE PREPARING SOME MINOR TECHNICAL SUGGESTIONS, WHICH ALSO WILL BE SUBMITTED TO YOU SOON.

CONCLUSION

I WANT TO REITERATE WHAT I SAID TO YOU IN MY TESTIMONY LAST MAY, WHICH IS THAT I PERCEIVE THE GOVERNORS' SUPPORT FOR THIS BILL TO BE QUITE DELICATE. ALTHOUGH THE MAJORITY OF GOVERNORS WOULD SUPPORT THIS BILL WITH THE CHANGES I HAVE MENTIONED TODAY, THERE ARE A HANDFUL OF GOVERNORS WHO DO NOT THINK THESE AMENDMENTS GO FAR ENOUGH. I ALSO WOULD LIKE TO CAUTION YOU AGAINST THE GRANDFATHERING OF CURRENTLY OPERATING ILLEGAL GAMING ACTIVITIES. STATES WOULD NOT ONLY CONSIDER THIS PATENTLY UNFAIR TO LAW-ABIDING TRIBES, BUT ALSO AN UNACCEPTABLE USURPATION OF STATE SOVEREIGNTY.

IN SUMMARY, I AM CONFIDENT A MAJORITY OF GOVERNORS WOULD BE WILLING TO SUPPORT THIS BILL WITH THE CLARIFICATIONS AND CHANGES I HAVE DESCRIBED TODAY. FIRST AND FOREMOST ON OUR LIST IS THE REFINEMENT OF THE SCOPE OF GAMING FRAMEWORK TO RESOLVE THE UNCERTAINTY THAT STILL EXISTS WITH RESPECT TO THE DEFINITION OF VIDEO PULL-TAB DEVICES AND THE DISTINCTION BETWEEN GAMING CATEGORIES, AND THE REMOVAL THE "NOMINAL" VALUE LIMITATION FROM THE SOCIAL GAMING DEFINITION. ENSURE THAT THE GOVERNORS HAVE A MEANINGFUL ROLE IN THE INTERIOR SECRETARY'S DECISION TO ACQUIRE LAND IN TRUST FOR A TRIBE FOR THE PURPOSE OF GAMING. RECOGNIZE, IN YOUR AMENDMENTS, THE CONTINUED VIABILITY OF EXISTING SETTLEMENT ACTS. AND FINALLY, STRUCTURE THE INDIAN GAMING REGULATORY FRAMEWORK TO GIVE STATES THE "OPTION" TO FULLY REGULATE THESE ACTIVITIES.

I AM OPTIMISTIC THAT WE WILL SOON BRING THIS LONG PROCESS TO A CLOSE. THANK YOU.

NATIONAL GOVERNORS' ASSOCIATION

Howard Dean, M.D.
Governor of Vermont
Chair

Tommy G. Thompson
Governor of Wisconsin
Vice Chair

Raymond C. Scheppach
Executive Director

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August 31, 1994

The Honorable Daniel K. Inouye
Chairman, Committee on
Indian Affairs
United States Senate
Washington, DC 20510

The Honorable John McCain
Vice Chairman, Committee on
Indian Affairs
United States Senate
Washington, DC 20510

Dear Senator Inouye and Senator McCain:

The nation's Governors are disappointed that you have radically altered the scope of gaming and process portions of your bill to amend the Indian Gaming Regulatory Act of 1988 (IGRA). As you know, clarification of the scope of gaming has been and remains the Governors' primary objective with respect to amending IGRA.

By this action you appear to have departed from your own process, one which, though arduous, had moved the discussion in a positive manner. State and tribal governments spent several months in good faith negotiations over the clarification of IGRA, and now, in your revised bill, you completely discard the product of those discussions. Your bill almost entirely reverts back to the scope of gaming language contained in the original IGRA, and clearly provides the tribes with a "fast-track" compacting process. I will recommend that the Governors vigorously oppose this legislation.

Your letter exaggerates the level of the states' dissatisfaction with the scope of gaming language contained in your original S. 2230. As I thought I made quite clear in my testimony July 19, I believed the Inouye-McCain amendments captured the essence of the compromise evolving out of hours of negotiation over clarification of IGRA. Further, I indicated that relatively minor changes were needed to make your scope of gaming proposal acceptable to the Governors. Never did the states request that you withdraw the entire scope of gaming or process language contained in your original bill. To the contrary, we applauded your efforts to construct a compromise and expressed a willingness to work with you within the context of your framework.

Your current draft grants the states no relief with respect to the scope of gaming and provides tribes with a fast-paced compacting process that is riddled with Tenth Amendment concerns for states. This scenario contains no hint of compromise. It certainly was not our intention to have spent these many months at the negotiation table to produce a law that is worse than the original.

Although Governors remain committed to resolving this complex issue, they would not support returning to the negotiating table using your revised scope of gaming language as a starting point.

As I have said many times, the framework for a compromise exists. The states have moved a great deal in the direction of consensus, expressing a willingness to concede Tenth and Eleventh Amendment defenses and provide tribal governments with an expedited compacting process. However, support for such concessions always was inextricably linked to the development of a scope of gaming framework based on state law and containing bright-line distinctions between different gaming activities and devices.

We all have worked hard to make this process work, and, needless to say, my view is that the sudden departure from the original S. 2230 signals a failure in that process.

Sincerely,

Governor Mike Sullivan

JOHN J. LaFALCE, New York
Chairman

JAN MEYERS, Kansas

Congress of the United States
House of Representatives
103d Congress
Committee on Small Business
2361 Rayburn House Office Building
Washington, DC 20515-6315

November 28, 1994

BY FACSIMILE AND PERSONAL MAIL

Mr. Tim Wapato
National Indian Gaming Association
904 Pennsylvania AVE. SE
Washington, DC 20003

Dear Mr. Wapato:

As you know by now, the hearing of the Small Business Committee scheduled for Monday, November 28, has been canceled. As I continue to explore the issue of Indian gaming outside of the hearing forum, I am writing to request that you submit a statement to the Small Business Committee, along with relevant documents, outlining your organization's perspective and concerns related to this important issue.

As in our September 21 hearing on casino gambling, I am interested in exploring both the impact of casinos--on small businesses, communities, and the nation as a whole--and the regulatory structure that seeks to control the more harmful aspects of gambling. I would be most interested in hearing from you on the following aspects of Indian gaming: the social and economic impact on the tribes themselves; the impact on communities and businesses surrounding the gaming establishments; and the relationship between the gaming tribes and the communities and businesses surrounding their reservations.

As you well know, gambling is a unique recreational activity that brings with it costs and benefits not associated with other forms of entertainment. My overriding concern is that all parties responsible for the regulation of gambling are sensitive and responsive to the costs of gambling, in social and economic terms. To this end, I would like to collect and disseminate as much quality information, research, and advice on this issue as possible. I hope you will be able to help me in this effort.

Please send your statement addressed to me at the Committee by Friday, December 2. If you have questions or will not be able to submit a statement, please contact Mr. Scott Morris at the Committee. Thank you.

Sincerely,

JOHN J. LaFALCE
Chairman

JJL:sm

November 28, 1994

The Honorable John J. LaFalce
Chairman
Small Business Committee
U.S. House of Representatives
Room 2361 Rayburn House Office Building
Washington, D.C. 20515

Re: Small Business Committee November 28, 1994 Hearing on Indian Gaming

Honorable Members of the Small Business Committee,

My name is S. Timothy Wapato and I am the Executive Director of the National Indian Gaming Association. The NIGA is an association of 133 Indian Tribes. The mission of NIGA is to protect and preserve the general welfare of tribes striving for self-sufficiency through gaming enterprises in Indian Country. It is an honor to be offered the opportunity to present testimony to this Committee.

The Indian Gaming industry has an intensely close connection with small business interests. First, most are unaware that the Indian Gaming industry traces its beginning from a small business past. Most of the individual Indian Gaming facilities, no matter their current size, grew from a beginning as a small business. Only the larger Tribal Gaming Enterprises gain media attention and public scrutiny. In actuality, a significant portion of current Indian Gaming Enterprises still qualify as small businesses and are effected, positively and negatively, by the same federal requirements as non-Indian owned small businesses.

Second, Indian Gaming enterprises have, by necessity, relied on and become partners with local small businesses in order to survive. Tribal Gaming enterprises are large purchasers of local business services. It has been determined that for survival, Indian Gaming, by and large, requires partnerships with local construction and building supply firms, local restaurants, local hotels, local lounges, local cleaning firms, local clothing/uniform manufacturers, local law enforcement/security, local limousine, taxi, bus, and air transportation, local grocers and food distributors, local public utility companies, positive relationships with local Chambers of Commerce, and positive relationships with the local population. There is no "Walmart Syndrome"

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(big conglomerate business taking the place of and pushing out small business) in effect in Indian Gaming because of the reliance on the local business community to operate most Indian Gaming enterprises and because Indian Gaming creates a new type of business in a community where no business of this type existed before.

Finally, when a Tribal Gaming enterprise opens, many new small businesses are also created in order to provide necessary service to the new business. These can include, restaurants, hotels, convenience stores, gas stations, banks, other entertainment ventures such as boating or skiing, childcare ventures, gaming employment training and management programs, etc. Indian Gaming enterprises are the genesis for an entire support network of business ventures. Literally hundreds of new businesses nationwide have been created as a result of Indian Gaming.

GROWTH OF INDUSTRY

As mentioned above, the Indian Gaming Industry has steadily grown through the last decade. However, the industry is not so large as some would present it to be. Of the approximately 500 Indian Tribes in the U.S., only about 100 have some form of gaming. Indian Gaming, collectively, represents only 7% of 1993 U. S. Gaming revenue. Only 19 states have Indian Gaming, as opposed to 40 states which have lotteries. Lotteries represent 37% of U. S. Gaming revenue. Privately owned casinos represent 36% of the 1993 U. S. Gaming revenue. Parimutuels, which accounted for 11% of 1993 U. S. Gaming revenue, is also larger than Indian Gaming.

It is important to remember that Indian Gaming is not a conglomerate business. All the proceeds do not go to a single entity. Each Indian Gaming enterprise is a separate business, subject to and dependant on local economies and population. Indian Gaming is tribal government organized, similar to state lotteries. Indian Gaming profits, by designation of law, are used to support the infrastructure of the government or the people of the tribe.

TRENDS

Certain trends have developed in local economies with the proliferation of Indian Gaming enterprises. These trends are as follows:

Indian Gaming enterprises stimulate and create new businesses, both Indian and non-Indian.

Indian Gaming enterprises increase local economic activity, particularly

increasing spending and employment. (An estimated 82% of Indian Gaming jobs are held by non-Indians.)

Indian Gaming enterprises reduce local public assistance rates and expenditures. (In Wisconsin, 52% of Indian Gaming enterprise employees came off unemployment rolls, 27% came off welfare rolls.)

Indian Gaming Enterprises increase tourism and stimulate visitor spending.

Indian Gaming enterprises increase federal, state and local tax revenues.

Indian Gaming enterprises result in decreased crime rates and increased local law enforcement and security expenditures.

Indian Gaming enterprises result in lowered unemployment rates on the reservation and in local non-Indian communities.

Indian Gaming enterprises increase Indian governmental services, economic development, and self-sufficiency.

Indian Gaming enterprises, nationwide, have created in excess of 100,000 direct jobs and an additional 110,000 indirect jobs, a total in excess of 210,000 jobs created as a result of the industry. These are generally jobs and work created in depressed areas where no previous employment opportunity was available.

Indian Gaming enterprises do not exist in a vacuum, separate from the local community. Communities in which Indian Gaming enterprises have developed have found numerous benefits from these businesses. The *Report of the Arizona Town Hall*, October 30-November 2, 1994, considering American Indian Relationships in a Modern Arizona Economy, found that "American Indians already have invested, and envision continuing to invest, gaming revenues into economic activities, including commercial and industrial development activities, that will benefit both reservations and Arizona communities beyond reservations." And, "Dramatic and fundamental improvement is underway."

If Indian Gaming seems an economic and social panacea, it is because the industry has been designed to be so. The Indian Gaming Regulatory Act (IGRA) provides limitations on spending of net revenue derived from gaming. These limitations include funding of tribal operations or programs, to provide for the general welfare of the Tribe or its members, to promote tribal economic development, to donate to

charitable organizations, or to help fund operations of local government agencies. While such revenue limitations may seem heavy handed, they have largely been embraced by Tribes as consistent with a tribal philosophy of government.

REGULATION

Indian Gaming is the most regulated form of gaming practiced in the United States. Indian Gaming is subject to the jurisdiction of federal law, regulation and numerous federal entities, including, the Bureau of Indian Affairs, the National Indian Gaming Commission, the Federal Bureau of Investigation, the Office of Inspector General, and the Internal Revenue Service. Indian Gaming is subject to the jurisdiction of the state in which the Tribe resides, including compact negotiation, the state gaming commission, and, depending on the content of the compact, civil and criminal court jurisdiction. Finally, Indian Gaming is subject to tribal jurisdiction, including tribal gaming laws and ordinances, tribal gaming commissions, tribal civil and, where applicable, criminal court jurisdiction.

Too much regulation can deter the successful development of business, and Indian Gaming is no exception. Regulations requiring strict federal and, in particular, state oversight, have a duplicitous effect and result in increased administrative requirements without substantive benefits. The Indian Gaming industry has taken the position that the six year old Indian Gaming Regulatory Act and the resulting National Indian Gaming Commission (NIGC) should be permitted to complete its regulatory tasks and fully develop the compact/contract approval process without further federal intervention. It is important to note that the States lobbied furiously for the passage of IGRA in 1987 and 1988, and supported the Act at the time of passage. The Act represents a compromise between the States, Tribes, and Federal Government which was the result of almost two years in negotiation and development.

The system must be allowed to get up and running prior to reinventing additional regulatory schemes. The National Indian Gaming Commission was extremely slow in becoming functional. The NIGC only issued operational regulations on January 2, 1993, effective date, February 22, 1993.

NIGA believes that in the short time Indian Gaming has been in existence, the experience demonstrates that Indian Gaming has provided positive benefits to Indian Tribes and to the local, regional and state areas in which the gaming is situated. This is particularly evident in counties which the U. S. Census has identified as the poorest in the U. S. All are Indian reservations. Unemployment is as high as 80%, a

rate similar to Third World Countries. For these areas, Indian Gaming is the only economic development tool which has worked in 200 years.

Finally, it must be remembered that Gaming is an entertainment industry. People do this to have fun. The average loss at an Indian Gaming enterprise is less than $20. Tribes fully support, and have even created, programs to assist those who have a problem with gambling. But, the ultimate message is that people are having a good time. Their good time shouldn't be legislated out of existence.

The NIGA thanks the House Small Business Committee for this opportunity to provide testimony. The NIGA exists not just as an advocate for Tribes, but was created as an organization which can assist to dispel many of the myths surrounding Indian Gaming. Should the Committee have any further questions, the NIGA can be contacted at any time. Thank you.

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